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VIRGINIA vs. WEST VIRGINIA

PENDING BEFORE

HON. CHARLES E. LITTLEFIELD,

SPECIAL MASTER.

Value of Bank Stocks Received by West Virginia from Virginia (Par. 7 of Decree).

Comments by Counsel for West Virginia on two papers before the Special Master, viz:

1. "Details of Dividends Received from the Northwestern Bank of Virginia at Wheeling, and the Fairmont Bank (Marion County), in Defendant's Exhibit G-1, page 10;" and
2. Returns of said Banks to the Governor of Virginia, showing their respective conditions on January 1, 1860, and 1861, etc.

COMMENTS.

The Attorney General of West Virginia has received from the Special Master a copy of

1. "Details of Dividends received from the Northwestern Bank of Virginia at Wheeling, and the Fairmont Bank (Marion County) in Defendant's Exhibit G-1, page 10"; and

2. A paper containing copies of returns made by the Northwestern Bank of Virginia, and the Fairmont Bank, to the Governor of Virginia. As respects the Northwestern Bank, the returns show its condition on January 1, 1861, in comparison with that date in 1860, and also its monthly condition of October 1, November 1, December 1, 1860, and January 1, 1861. As respects the Fairmont Bank the returns show its condition January 1, 1860 and 1861, and April 1, 1860 and 1861, and its monthly condition in October, November and December, 1860, and January 1, February 1, and March 1, 1861.

The assets of the Northwestern Bank, January 1, 1861, were \$2,110,243.41. Contrasted with that of January 1, 1860, its condition a year later shows an increase in the holding of notes of other Virginia banks from \$29,407 in 1860 to \$60,510 in 1861,—a dangerous increase, for the notes of Virginia banks in the lines of the Southern Confederacy became practically worthless. See evidences of Plaintiff's witnesses, pp. 754, 765, 781 and 782 of printed record. On the last cited page Mr. Charles U. Williams, a witness for Plaintiff, says:

“Bank stocks, and the stock of other corporations, including railways, were constantly depreciating, and *were finally entirely wiped out*—banks, railroads, insurance companies, and everything else. There wasn't a share of any manufacturing or industrial corporation, or any other corporation in Virginia worth a dollar.”

Besides, the “contingent” (surplus) fund decreased from \$87,816 in 1860 to \$63,732 in 1861, and the deposits fell off \$9,000 in the same time.

This bank was chartered in 1817 (Code Va. 1860, page 338, footnote). It was therefore an old bank in 1861. It would likely, in even normal times, accumulate much bad paper. The statement of 1861 shows a large sum invested in notes of Virginia and other banks. It is notorious that many of these notes were at a discount, and that counterfeiting was very prevalent. Every business man was compelled for his protection to keep constantly for consultation the freshest issues of some of the numerous “bank-note detectors.” There was then no systematic examination of the condition of banks by government experts. A few months after the statement of January 1, 1861, there ensued the greatest civil war in history. Virginia and West Virginia were the theatre of this war. No other states suffered from it, especially up to July 1, 1863, as much as these two states. It is probable that an old bank like the Northwestern Bank, having three branches, had much of its assets scattered over the territory of the then State of Virginia. The war came on. A line was drawn over which there was no intercourse, especially in business and banking. The notes in banks across that line in the territory of the South held by the Northwestern Bank would thereby become practically a total loss. If it held among its assets bonds of the State of Vir-

ginia, they were, for the time at least, a total loss, because they could not be realized upon, and had no market value. The same condition would apply to any of its other probable assets in the shape of loans to individuals, corporations, etc., across the line. It would be impossible, even in normal times, to say from the statement of the Northwestern Bank, under consideration, what its capital stock was worth; this would depend to a large degree upon the character of its assets. Its deposits were only one-fourth of its capital stock. In modern banking this would be considered a very unfavorable condition; and no one would consider stock in such a bank worth par, unless it had a large surplus fund, which this bank did not have.

Respecting the condition of the Fairmont Bank as shown by its statement of January 1, 1861, this much can be safely predicted—its stock was not worth more than par. The probability is that it was not worth that. Its deposits were \$7,198.76 only, an insignificant sum, a decrease of about one-third since January 1, 1860; and in amount the deposits were less than one-fifteenth of its capital stock. Its capital stock, as has been said, could not be worth more than par; it was very probably worth less than that, for it had, according to its own report, in December, 1860, bad and doubtful debts (assets) of over \$3,000. This was a new bank, started only a couple of years prior to January 1, 1861.

The statement of the Northwestern Bank does not comply with the law, in that it fails to specify its “bad and doubtful debts,” as required by sec. 42 of chap. 58 of Code of Va. 1860. It will be noted that the “contingent fund” of the Fairmont Bank as given in its statement of April 1, 1861, is less than five per cent of its capital stock (see Code Va. 1860, sec. 41, chap. 58), and hence it could not lawfully declare or pay any dividend whatever.

It is believed that there is little in the “Details of Dividends” paid by the Northwestern Bank from 1835 to 1860 from which a conclusion can be drawn as to the value of its stock as of June 20, 1863. Its average annual dividend for the four years of 1857-1860 was considerably below the five years of 1852-1856. The dividend of the Fairmont Bank for 1860 (the only year reported) was but four per cent, from which it would be inferred that the stock was worth considerably less than par.

The object is to ascertain as nearly as possible the value of the stocks of these two banks as of June 20, 1863. It is obviously impossible to do so exactly, because no statement of that date, or

near it, can be found, nor any evidence of the rate of dividend then paid, if any was paid, can be found. Hence, we suppose that the Special Master was seeking information other than that in the record, to enable him to arrive at such value. To that counsel for West Virginia has no objection whatever. We have not desired, nor do we desire, to conceal anything that has any bearing on this phase or any other phase of the matters in controversy between the parties to this suit.

Upon receipt of the two papers named in the beginning of these comments, we made up an index and synopsis of all the evidence in the record concerning banks, bank stocks, etc., which is annexed hereto and marked "Appendix A." Furthermore, we caused to be made another search of the records of West Virginia, as exhaustive in its nature as the time at our disposal would permit, that we might lay before the Special Master any additional pertinent evidence discovered. We found nothing to militate against the evidence and the contentions of West Virginia, except this one fact:

In the evidence of Auditor Darst and Chief Clerk Dering it was said that West Virginia received two dividends on the stock in the Northwestern Bank, aggregating \$21,020, which were paid July 9, 1867, and August 12, 1868; but our last said search revealed the fact that another dividend on this Northwestern Bank stock of five per cent, amounting to \$10,510, was paid into the State Treasury of West Virginia on September 1, 1871. Hence, this amount should be added to that already shown, increasing the amount received by West Virginia from stock held by the Commonwealth of Virginia in the Northwestern Bank, from \$126,120 to \$136,630. See "Appendix A," pp. 3-4. It would be unjust to ourselves if we did not explain how it came to pass that this last dividend was not discovered previously. This we now do. No one thought that any payment from this source would be made as late as 1871; the cue is found in a letter printed in the Auditor's report for 1871, from G. Lamb to Auditor E. A. Bennett (see "Appendix B" hereto annexed); and as only a small amount of this last dividend of \$10,510 was paid into the School Fund, an examination of payments into that fund would not disclose the payment of the whole sum, nor the source of the small amount thereof paid into the school fund.

The question may naturally arise here, How do we know that this last dividend of \$10,510, paid on September 1, 1871, was the

last payment or amount received on account of said stock? Because we carefully examined the Auditor's reports to and including the year 1886 for that purpose. These reports record payments into the State treasury from every source. We therefore feel certain that no other payment on this account was made, or any other amount received thereon. However, we shall be quite willing to assist any representative of Virginia who will come here for the purpose, in examination of any of our records, or will produce them before the Special Master if desired.

In the search made, every word of the record of the minutes of the proceedings of the Board of the School Fund was read, as recorded in Record Book No. 1 (a book of original entry), covering the period from January 21, 1862, the date of the first meeting, to June 2, 1898, the date of the last meeting therein recorded. Also, the Ledger No. 1 of the Board of the School Fund, a book of original entry, covering the period from October 2, 1865, to September 1, 1874, was similarly read.

It was in said Record Book that we found recorded the report of the Honorable Chester D. Hubbard, which we caused to be copied and certified and annexed hereto as "Appendix C." On February 15, 1871, an order was passed by the Board of the School Fund appointing Mr. Hubbard to make the investigation and report thereof which was made by him and contained in said "Appendix C." Mr. Hubbard's report was acted upon at a meeting of the Board held March 2, 1871, when an order was passed that the same be "spread upon the record" and that he be paid his expenses. See Record Book No. 1 of Board of School Fund, pp. 35-41.

The statement of the amount the State of West Virginia actually received from the stock held by the Commonwealth of Virginia in the Northwestern Bank of Virginia, at Wheeling, (including its branches,) and in the Bank of Fairmont (Marion County), under the act of February 3, 1863, (p. 128 Appendix to Record), is as follows:

From the Northwestern Bank:

National Bank of West Virginia, 300 shares;	
First National Bank of Wellsburg, 351 shares;	
Parkersburg National Bank, 400 shares; total 1051	
shares, of par value of \$100 each.....	\$105,100
Three dividends each of 5%, or \$10,510, paid, re-	

spectively, July 9, 1867, August 1, 1868, and
 September 1, 1871,..... 31,530

From Fairmont Bank (Marion County):

First National Bank of Fairmont, 500 shares, of
 par value of \$100 each..... 50,000

Total \$186,630

West Virginia insists that the foregoing is the *full value* on June 20, 1863, of the stocks held by Virginia in said Northwestern and Fairmont Banks. While it is true that the above value is that of a period some two years subsequent to June 20, 1863, the date when West Virginia (constructively) received the property, yet, it is insisted, *this was to the advantage of Virginia and against the advantage of West Virginia*, for the probabilities are so strong that they amount well nigh to a certainty, that these bank stocks were worth more in the middle of 1865 than they were in the middle of 1863, which was in the middle of the war. This is so because these banks had from July 1863, to 1865 or 1866 to recover from losses incident to the war. Though the war did not end till 1865, its severest part in West Virginia was prior to July, 1863, while its severest part in Virginia was after that date. It was in June, 1863, that General Lee felt strong enough to invade the North for the second time. The defeat of the Confederates at Gettysburg and the fall of Vicksburg, in the early days of July, 1863, was the turning point. After that there was hope, *confidence*, and renewed prosperity in the North, with an opposite state of affairs in the South. This is history that courts will take judicial notice of. On page 763 of the printed record Virginia introduced the following evidence, pertinent here:

“Q. 36. Lincoln’s proclamation emancipating the slaves was issued in September, 1862, to take effect according to its terms within such portions of the Confederate States as had not then laid down their arms and returned their allegiance to the National Government, on the first day of January, 1863,—what effect did that have?

“A. Very little until the surrender of Vicksburg and Gettysburg. It was laughed at and ridiculed by most of the people. *But after Vicksburg and Gettysburg we began to be a little doubtful.*”

Other evidence, historical and otherwise, could be cited upon this point. But it is deemed unnecessary. We indulge, nevertheless, one historical quotation. It is from Volume 4, page 501, of "The South in the Building of the Nation," a sumptuous work in twelve fine volumes, published last year (1909) by the Southern Historical Publication Society, Richmond, Virginia. It is a glorification of the deeds of the South, especially as respects the part it played in the Civil War. Speaking of a date near that of June 20, 1863, and respecting Lee's second invasion of the North, which ended in the battle of Gettysburg and Lee's retreat south of the Potomac, this history says:

"The Southern star has reached its zenith. Grant had just failed in his first efforts to capture Vicksburg, and Hooker's army was growing weaker by reason of the rapid desertion of his men. The Democratic party of the North was declaring the war 'a failure,' and denouncing the military tyranny that had been erected upon the ruins of the constitution, under the so-called military powers of the president. Lee led his army northward across the Potomac and marched into Pennsylvania, threatening Baltimore and Philadelphia. George G. Meade was made commander of the Federal army, which was thrown across Lee's track at Gettysburg. Lee hurled his army upon his antagonist entrenched with superior forces upon commanding heights, and the charge of the Virginians on July 3, 1863, under General Pickett, has become world famous. But the Federal forces fought bravely, and were too strongly entrenched to be driven away, and Lee was compelled to withdraw into Virginia again. Mead's forces were too badly shattered to attack, and though he followed Lee to Virginia it was always at a distance. An even greater disaster befell the Confederate course in the West, where Vicksburg was captured by General Grant on July 4, 1863, and Port Hudson on July 9, involving the loss of about 40,000 veteran soldiers, who were taken prisoners. In these western successes the power of the Federal navy again made itself felt. Bragg, in September, 1863, won a great victory at Chickamauga, but the effect of it was lost by the Federal successes in November, 1863, at Lookout Mountain and Missionary Ridge.

"From this time the star of the South began to decline. Previous to the battle of Gettysburg everybody in both sections and in foreign countries was tired

of the war, and a fresh success of the Confederate troops at Gettysburg would have greatly discouraged Lincoln and the North, emboldened the nations of the earth to recognize the struggling South, and probably have insured the triumph of the Confederate cause.”

WILLIAM G. CONLEY,
Attorney General.

WM. M. O. DAWSON,
For West Virginia.

Charleston, W. Va., Feb. 24, 1910.

APPENDIX A.

Virginia vs. West Virginia.

INDEX AND SYNOPSIS

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On page 1 of Deft.'s Ex. G-1 (p. 820A of printed record), in

the summary, are shown, in separate columns: 1. The amounts paid by Virginia for the stocks held by her on January 1, 1861, in the Northwestern and the Fairmont banks, which amounts are the par value of the shares then held by her in these banks; 2. The amounts of dividends received on such stock up to that date; 3. Value chargeable to West Virginia for such stocks, which value is given as that of the amount paid by Virginia. The latter is correct as to the Fairmont Bank, but is an error as to the Northwestern Bank. This error was corrected in the hearings before the Special Master since the record was printed. See page 1749 of the typewritten record, proceedings of November 5, 1909, where the correct amount is given, as follows:

National Bank of W. Va., at Wheeling, 300 shares, par value \$100	\$30,000
First National Bank of Wellsburg, 351 shares, par value \$100	35,100
Parkersburg National Bank, of Parkersburg, 400 shares, par value \$100.....	40,000
(These were the successors of the Northwestern Bank of Virginia at Wheeling.)	
The remaining assets (of the old N. W. Bank) were collected and sold, and West Virginia received in two sums of \$10,500 each.....	21,020
Total from Northwestern Bank.....	\$126,120
Add 500 shares from First National Bank of Fairmont, of par value of \$100, successor to the Bank of Fairmont	50,000
Total value of stock received by West Virginia....	\$176,120

An analysis of stock held by Virginia in Banks in West Virginia, and statement of how held, number of shares, par value of shares, dividends received, etc., see page 10 of Deft.'s Ex. G-1, page 820K of printed record.

It will be noted that par value of the stock in the *Fairmont* Bank was \$50 per share, and that Virginia held 1000 shares; but that the par value of the shares in its successor, First National Bank of Fairmont, was \$100 per share, and that West Virginia received 500 shares. The total value of the shares in each case was the same, namely, \$50,000.

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APPENDIX B.

(From Auditor's Report for 1871.)

TABLE K.

Bank of Wheeling,
Wheeling, W. Va., July 17th, 1871.

Hon. E. A. Bennett,
Auditor of West Virginia:

Dear Sir:

I have received your favor of the eleventh inst.

The dividends sent you in my letter of sixth inst. were on account of collections made by board of commissioners from the assets of the Northwestern Bank of Virginia. This stock formerly stood in the name of the Commonwealth of Virginia, and upon the organization of the State of West Virginia was transferred to it.

By reference to the books in your office, you can see what disposition was made of former dividends from the same stock. The dividends have been as follows, viz:

50 per cent, National Bank stock, July 1, 1866,

5 per cent. cash, July 1, 1867,

5 per cent. cash, August 1, 1868,

5 per cent. cash, July 1, 1871.

I believe that the Hon. C. D. Hubbard made a lengthy report to Governor Stevenson as to the condition of this stock, which report will probably be found with the papers filed in the Governor's office.

If you desire further information, please advise.

Yours very truly,

[Signed] G. Lamb, Secretary of Board of
Commissioners of North Western Bank of Virginia.

APPENDIX C.

REPORT OF HONORABLE CHESTER D. HUBBARD.

Wheeling, West Virginia, Feb. 24, 1871.

Hon. W. E. Stevenson, President.

Dear Sir: In accordance with the instructions of the Board of the School Fund in their action of the 15th, I have ascertained and herewith transmit a statement of the stock held by the State in the National Bank of West Virginia at Wheeling, the First National Bank of Wellsburg, and the Parkersburg National Bank, and the different funds to which said stock is credited.

I also proceeded to Wellsburg and exchanged as directed the stock of the Internal Improvement Fund in the First National Bank of Wellsburg, 163 shares, for United States 5-20 coupon bonds (the Bank had no registered bonds), receiving therefor sixteen bonds of \$1,000 each and three bonds of \$100 each lettered and numbered as follows: \$1000 K 134,401, 134,403, 134,404, 134,405, 134,406, 134,407, 134,413, 134,414, 163,792, G 142,990, 142,991, 142,981, 142,982, 142,983, 142,984, 142,985. \$100 each, I 177,876, C 102,938, D 236,517. These bonds carry the coupon of July 1, 1871, and were issued July 1, 1867, under the act of 1865.

I have sealed the bonds in an envelope writing my name across the seal and labelling them as belonging to the School Fund of West Virginia, and have deposited them as a special deposit in the First National Bank of Wheeling. The bonds can be exchanged for registered bonds by sending them to Washington. I will attend to it if you desire it to make any other disposition of the bonds you may direct.

The Bank declined to exchange for the stock held in the name of the State, believing that they could not safely do so under section 7, article 8, of the Constitution, besides I was not certain that my authority extended to such an exchange. If I am to make any other disposition of the bonds, please advise me at your earliest convenience.

The stock exchanged at Wellsburg will modify the bond statement to that extent.

Very respectfully,

C. D. Hubbard.

Statement of Stock held by the State of West Virginia in "The National Bank of West Virginia at Wheeling," "The First National Bank of Wellsburg," and "The Parkersburg National Bank," and the different funds to which said stock is credited.

1837—(July 18)—The Commonwealth of Virginia subscribed 4,000 shares of stock in the Northwestern Bank of Virginia.....\$400,000.00

1857—(March 3)—The Bank purchased of this stock 1,082 shares as follows:

Northwestern Bank of Virginia at Wheeling...	332 shares	
“ “ “ Wellsburg..	250 “	
“ “ “ Parkersburg	250 “	
“ “ “ Jeffersonville	250 “	
	1,082 “	
		108,200.00

Leaving 2,918 shares.....\$291,800.00

1865—(March 2)—The Bank charged to the Commonwealth of Virginia all the stocks of the Bank of Jeffersonville, on the plea that the State had taken possession of that Bank, 1,642 shares..... 164,200.00

And transferred the remaining stock to the State of West Virginia, 1,276 shares..... 127,600.00

1866—(July 1)—On the organization of the present Bank this 1,276 shares was transferred at 50 cents on the dollar, as follows, viz:

National Bank of West Virginia at Wheeling, 300 shares	30,000.00
First National Bank of Wellsburg, 188 shares.....	18,800.00
Parkersburg National Bank, 150 shares.....	15,000.00

The Internal Improvement Fund of Virginia subscribed to the stock of the Northwestern Bank of Virginia: 1856—(August 30)—326 shares..... 32,600.00

This stock was transferred at 50 cents on the dollar, 1866, (July 1) to the First National Bank of Wellsburg, (163 shares)..... 16,300.00

The President and Directors of the Literary Fund of Virginia subscribed to the stock of the Northwestern Bank of Virginia, 1832 (November 24) 500 shares 50,000.00

This stock was transferred at 50 cents on the dollar,

1866 (July 1) to the Parkersburg National Bank, 250 shares	25,000.00
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Summary.

The State now holds in the—

National Bank of West Virginia at Wheeling, 300 shares in name of the State.....	\$ 30,000.00
First National Bank of Wellsburg, 188 shares in name of the State.....	18,800.00
First National Bank of Wellsburg, 163 shares in Internal Improvement Fund.....	16,300.00
Parkersburg National Bank, 150 shares in Internal Improvement Fund	15,000.00
Parkersburg National Bank, 250 shares in Literary Fund	25,000.00
	\$105,100.00

1867—(July 9)—The Northwestern Bank of Virginia paid a dividend of 5 per cent. on 326 shares Internal Improvement Fund	\$1,630.00
On 1,276 shares Commonwealth of Virginia stock	6,380.00
On 500 shares Literary Fund.....	2,500.00
	\$ 10,510.00
1868—(August 1)—A like dividend of 5 per cent on the same stocks.....	10,510.00
	\$ 10,510.00

February 21, 1871.

I, J. S. Darst, Auditor of the State of West Virginia, and *ex officio* Secretary of the Board of the School Fund of said State, hereby certify that the foregoing is a true and correct copy from the record of the minutes of the proceedings of said Board, pages 37 to 41 of Record Book No. 1 of said Board.

Given under my hand and official seal, this 26th day of February, 1910.

J. S. DARST,

Auditor.

VIRGINIA vs. WEST VIRGINIA

PENDING BEFORE

HONORABLE CHARLES E. LITTLEFIELD,

SPECIAL MASTER.

Fair Estimated Valuation of Property in Virginia (Par. 5).

*Comments by Counsel for West Virginia on the Contentions of
Counsel for Virginia:*

1. That property in the present State of Virginia, as of June 20, 1863, was assessed in Confederate currency;

2. That the fair estimated value of property in the present State of Virginia, as of June 20, 1863, is as to Real Estate was but one-half of the assessed value of that year; and as to Personal Property but one-fourth of the assessed value of that year.

FAIR ESTIMATED VALUATION OF PROPERTY.

According to Joint Exhibit E-1 (pp. 639 and 643-5 of printed record) the total assessed value of property in the present State of Virginia as of June 20, 1863, was \$710,889,989.03, and in West Virginia \$113,142,996.70. Of the total value for Virginia there is included the assessed value of slaves of \$250,851,591.

Virginia objects to the inclusion in the total valuation of her property—

1. The said valuation of slaves, of \$250,851,591;
2. The valuation of income, \$11,108,300.13; and
3. Contends that the fair value of the real estate is but one-half of said assessed valuation of \$296,085,460.31; that the fair value of the personal property is but one-fourth of the said assessed value of \$152,844,637.59 (which does not include said assessed value of slaves nor that of income).

The grounds of her objection are two—

First—That the value of the property was reduced below the

assessed value to the extent of her contention (one-half as respects real property, and one-fourth as respects personal property) by the ravages of the Civil War; and

Second—Because the assessed values of 1863 are based on depreciated currency.

In other words, Virginia contends that the fair value of her property, June 20, 1863, was but \$186,253,889.55 or a little over one-fourth only of the assessed or official value (\$710,889,989.03).

Assessment in Confederate Currency.

Let us consider the last contention first—that the values for 1863 are based on Confederate currency.

There is not sufficient evidence to show this. The evidence is well nigh conclusive to the contrary. Virginia introduced the depositions of several witnesses to prove her contentions (pp. 739-785 of printed record), but not one of these would testify that the assessment was made in Confederate currency. The acts of March 22, 1862, and March 28, 1863, (Appendix, p. 132), making Confederate notes receivable in payment of taxes, have no relevancy at all to the basis of the assessment. Taxes may be made payable in gold, silver, or in kind, or in anything different from the legal tender currency of the country (1 Cooley on Taxation, 15). These acts simply made these notes a legal tender for a debt due the State. The Legislature could have enacted that taxes might be paid in corn, or wheat, or rye, and fixed the value of such at so much per bushel. If it had done so, no one would contend that the assessment was made on the value of such grain. It will be noted that the last named act limits the receipt of Confederate notes in the payment of taxes to notes of the denomination of five dollars or over—notes of less denomination were not receivable. Will it be contended, *therefore*, that the value of property the taxes on which would not amount to five dollars, was assessable with reference to gold, and that property the taxes on which would amount to five dollars or more was assessable with reference to Confederate currency because the taxes thereon could be paid in that currency?

The act of March 27, 1862, and of March 28, 1863, (Appendix, p. 133) relative to the assessment of real estate, distinctly provided that such assessment was to be made with reference to the standard in force in 1856, which was the gold standard. These acts forbade

the assessment of real estate in Confederate currency. The Constitution of Virginia of 1851, which was in force until May, 1862, declared (art. 4, sec. 22)—

“22. Taxation shall be *equal and uniform* throughout the commonwealth, and all property *other than slaves* shall be taxed in proportion to its value, which shall be ascertained in such manner as may be prescribed by law.”

The amended Constitution of December 5, 1861, ratified in May, 1862, provided (art. 4, sec. 22)—

“22. Taxation shall be *equal and uniform* throughout the commonwealth, and all property shall be taxed in proportion to its value, which shall be ascertained in such manner as may be prescribed by law.”

(Journal of the Convention, Ordinance No. 39. This Constitution is printed in full at the end of the journal of the convention, and also at the end of the Acts of 1863, adjourned session.)

Will it be contended that the Legislature of Virginia provided that all the lands, lots and buildings in the State should be assessed in gold value, and that the personal property should be valued for taxation in a depreciated currency, worth at the time one-fifth or one-sixth as much as gold, and thereby have made the taxes payable on one class of property five or six times as much as that payable on another class of the same real value? Would this not have been most grossly unequal and ununiform? Is it supposable that the Legislature would enact statutes so grossly violative of every principle of justice and right of the Constitution of the State?

Evidence of Virginia's Witnesses.

Moreover, the evidence of plaintiff's witnesses, before referred to, (pp. 739-785 of record), clearly shows that the assessment was not made with reference to Confederate currency.

In considering the evidence of these witnesses it will be necessary to refer to—

(a) The table made by Messrs. McClintic and Lightfoot, headed “Extracts from the Personal Property Books of Virginia for the

Year 1863," which we will hereafter refer to as "the M. & L. Statement."

(b) The paper called "Comparison of Average Assessed Valuations of Various Items of Personal Property in the Counties now Constituting the Commonwealth of Virginia and the State of West Virginia, for the years 1860, 1861 and 1863," by accountants Potter and Dixey, and hereinafter referred to as "Potter & Dixey's Comparison;" and

(c) "A Statement Showing the Number of the Following Named Subjects of Taxation in the Present State of Virginia, for the Year 1861," and also a similar one for the year 1860. These statements we have had made up from the Auditor's Report for 1860 and 1861 (Plaintiff's Exhibit H-1). Their correctness can easily be verified by the Special Master. A copy of this statement for each of the years 1860 and 1861 is hereto annexed. Their object is to get as correct a basis, as far as possible under the circumstances, for comparison of the *number* of the various items of personal property, named in the M. & L. Statement and the Potter & Dixey Comparison, in 1860 and 1861 with 1863. Inasmuch as the M. & L. Statement for 1863 omits a number of Virginia counties, which were not reported in the Auditor's report for 1863, the statements hereto annexed (which we will call, for short, "the Number Statement 1860"—or "1861,"—as the case may be), we have made each of these Number Statements to consist of two tables. Table I covers the same territory as the M. & L. Statement, while Table II includes the counties not named in the M. & L. Statement. (N. B.—Bland County does not appear in 1860 but appears in 1861, because it was created between the assessments of 1860 and 1861.—See Auditor's Report 1860 and 1861, Plaintiff's Exhibit H-1, p. 611).

Now, as to evidence of Virginia's said witnesses:

W. W. Scott, p. 748, says:

"When I joined the army in 1863 (November, pp. 747, 751) the horse I was riding was appraised at \$1200 in Confederate money, and \$100 would have been a good price for him in gold—a big price, but for the scarcity of horses then."

Colonel Branch, p. 759, says a horse valued at \$200 in gold would sell for about \$1200 in Confederate currency in June, 1863. Mr. Hawes says, p. 774, that horses in 1862 and 1863 would sell

at \$400, \$1000, and \$1500 in Confederate money. Mr. Williams, p. 781, says that it "was a mighty poor horse" you could get in 1863 for \$500 in Confederate currency—the average price was higher than that.

The result of this evidence is that horses were worth in June, 1863, about \$1200 in *Confederate currency*. The official figures show that the average assessed valuation was \$113 or \$125—the M. & L. Statement shows a total of 199,907 horses assessed at \$22,455,190, or about \$113 per head on the average; while the Potter & Dixey Comparison, which takes in all the counties, puts the average assessed value at \$125.25 per head. If the assessment had been made in Confederate currency value, the average assessed valuation of horses per head would have been \$1000 to \$1200 each, instead of \$125. This shows that horses were not assessed with reference to Confederate currency values in 1863; and if horses were not, it is a very strong presumption that other items of personal property were not so assessed.

What the Official Figures Show as to Values.

The average assessed value *each* of the items of personal property named in the M. & L. Statement, Potter & Dixey's Comparison, and the Number Statements for 1860 and 1861 (hereto annexed), according to Potter & Dixey's Comparison, is as follows:

Average Value Each, 1860, 1861, 1863.

	1860.	1861.	1863.
Horses, etc.	\$ 69.53	\$ 64.98	\$125.25
Carriages, etc.	76.46	69.78	90.28
Cattle	11.13	10.04	24.28
Sheep	2.24	1.74	5.72
Hogs		1.99	5.26
Watches	34.85	32.47	51.41
Clocks	4.41	4.21	5.64
Pianos and Harps.....	158.15	146.28	182.46

N. B.—Sheep and hogs were not returned separately in 1860, as they were subsequently.

What Caused Increase in Values and Prices.

What caused the increase in value in 1863 over the value of 1860

and 1861? As we shall see presently, there was but slight decrease in number; and in sheep and in pianos and harps there was an *increase* in number between these two periods, and yet an *increase* in value also. The increase was caused by that law, which is as inexorable as the law of gravitation—the *law of supply and demand*. The demand increased out of proportion to the increase in supply. This was caused by the fact that hundreds of thousands of men, who had been both producers and consumers, were now converted into consumers only by reason of becoming soldiers. The rise in values was caused in the Southern Confederacy by the same law that caused the rise in Federal territory—that self-same law of supply and demand; which causes a rise in the value of wheat when there is a failure of the wheat crop. The rise in values was not caused because a depreciated currency was used as a medium of exchange, because while that would cause a rise in *prices* it would not of itself cause a rise in *values*. In what articles would we naturally expect the greatest (and first) rise in values in war times, like these times we are considering? In necessities, of course. And so we do find. Horses, the demand for which was increased for army purposes; cattle, sheep and hogs, the demand for which increased to feed the armies—these show the greatest rise in values; while in carriages, watches, clocks, and pianos and harps the rise is very much less. And Virginia's own witnesses, whose depositions are printed on pages 739-85 of the record, go to prove our argument. Mr. Scott says, p. 748, that \$100 in gold would have been a good price for a certain horse, except "*for the scarcity of horses.*" On page 750, he says the value of horses was much more than it would otherwise have been, because of the demand for them. On page 756, Colonel Branch says the value of horses did not fall like some other things, because they were "very much needed for the cavalry and artillery." Again, on page 758, he says horses probably sold better than anything else, "because they were in demand." On page 759, he says there was more demand for horses in 1863 than before the war. See also what Major Wellford says, p. 763, about the demand for horses for the army and consequent high prices therefor; and Mr. Taylor, p. 769, as to exception from depreciation of "such things as were absolutely in demand, like horses and provisions."

Of course we know that if there had been a falling off in the supply and the demand had remained normal, that this would have caused an increase in value; or, if there had been a falling off in

supply and an increase in demand, that this would have caused a rise in value also; but in the case under consideration the falling off in the supply was slight, whereas the rise in volume was great—out of all proportion to the decrease in supply.

The witnesses of plaintiff contradict the record as to the diminution of property. Major Wellford, page 765, says: "I suppose by 1863 nearly one-half the horses had been killed—were used up or died in the army. The same is true as to beef cattle, and as I say, all other farming utensils, furniture, household effects, and everything of that sort, had deteriorated without any repairs being done." Mr. Hawes, p. 772, says: "Everything was swept off. The farmers tried to hide their horses when the army would come there, but somebody would report them and they nearly always lost their horses." Again, on p. 774, he says the damage to property had been "terrible" by June, 1863. In answer to a question as to what was the percentage of actual depreciation, in the value of lands from January 1, 1861, to June, 1863, p. 778, Mr. Williams says: "The horses had been taken and the cattle had been eaten up." Page 780, he was asked, "The personal property in the State had diminished more than 50 per cent?" (between 1861 and June, 1863), and answered, "Oh, yes, sir; it had disappeared *everywhere* pretty largely."

How erroneous these impressions of these witnesses were of things they casually saw nearly half a century before is shown by the official figures. The fact is that one-half the horses and cattle were not used up by 1863; everything had *not* been swept off, and Mr. Williams is mistaken in saying that the personal property had pretty largely disappeared everywhere by June, 1863, for the *number* of horses, etc., hogs, sheep, cattle, pleasure carriages, etc., watches, clocks and pianos and harps, in the 81 counties named in the M. & L. Statement in the present State of Virginia, in contrast with the same counties in 1860 and 1861, is exhibited in the following table:

Number of Horses, Cattle, Sheep, Etc., in 1860, 1861 and 1863.

	1860.	1861.	1863.
Horses, mules, etc.....	200,006	206,367	199,907
Cattle	549,692	561,857	496,084
*Sheep		452,503	531,342
*Hogs		932,488	782,963
Carriages, etc.	29,580	30,694	25,852
Watches	29,361	29,820	25,347

*Sheep and hogs were not separately returned in 1860—see p. 612 Plff's Ex. H-1.

Clocks	45,143	49,992	42,524
Pianos and Harps.....	4,860	4,827	4,954

The above figures are from the M. & L. Statement, and Table I in the Statements for 1860 and 1861 annexed hereto. They show that the number of horses, asses, mules and jennets in 1863 was practically the same as in 1860, and a very slight decrease from that of 1861. Of cattle the decrease between 1861 and 1863 was only 11 per cent.; in sheep the *increase* was over 17 per cent.; in hogs the decrease is about 17 per cent.; in pleasure carriages and other vehicles less than one-sixth; in watches, about one-eighth; in clocks, about one-seventh; in pianos and harps—pure luxuries—there is an increase.

These official figures contradict squarely the contention of Virginia and the evidence of her witnesses, whose depositions are printed on pp. 739-85 of the record, as to the diminution of personal property caused by the devastations of the war up to June 20, 1863. The decrease is surprisingly small.

Testimony of the Governor and Auditor.

Not only are the contentions, arguments and oral evidence of said witnesses of Virginia negated by the official figures from her own records, before cited, but her own executive officers join in the contradiction also. In his message to the General Assembly, dated September 7, 1863, Governor John Letcher says, on p. xvi:

“The finances of the state are in a highly prosperous condition—much more prosperous indeed than could have been anticipated, under the circumstances which surround us. The numerous demands made upon the treasury have been promptly met and satisfied. Our revenue is increasing, and the people, with that noble spirit which has ever characterized Virginians, cheerfully pay their taxes, and thus maintain the credit and uphold the character of the commonwealth.

“I suggest whether it would not be wise to dispose of the interest which the state holds in our various internal improvement companies, under such restrictions as may be deemed proper, and apply the pro-

ceeds arising therefrom to the payment of the state debt. We could at this time dispose of these stocks to great advantage."

In a special report (Document No. 19), dated December 21, 1863, made to the House of Delegates of the General Assembly, Auditor J. M. Bennett, in comment on tables in the report, says, pp. 6 and 7:

That the number of horses, asses and jennets in the territory of Virginia under Confederate control in 1863 was 199,797, giving 38 horses, etc., for every 100 white persons in the territory.

That the number of cattle therein for the year 1863 was 547,724, giving 105 head of cattle to every 100 white inhabitants.

"In 1861 the number of sheep listed for taxation was 489,351, and in 1863, 561,687, showing an increase of 72,336.

"In 1860 the proportion of horses in the entire state to the white inhabitants, was thirty-four horses to every one hundred white persons. In 1863 there were thirty-eight horses to every one hundred white persons in the district in our possession.

"In 1860 the proportion of cattle in the entire state to the white inhabitants, was ninety-seven head of cattle to every one hundred white persons. In 1863 there were one hundred and five head of cattle to every one hundred white persons in the district in our possession.

"In 1860 the proportion of sheep and hogs in the entire state to the white inhabitants, was two hundred and three sheep and hogs to every one hundred white persons. In 1863 there were two hundred and seventy-seven sheep and hogs to every one hundred white persons in the district in our possession.

"Thus it is shown by statistical facts, that our condition as a self-sustaining people *has been improving during the war*, and our means of passing through other and more trying ordeals, have only been tempered for the occasion."

The Governor's message and the Auditor's report, from which the foregoing quotations and extracts are taken, are printed in a volume of Virginia official documents, labeled "Documents 1863 and 1864."

Value of Slaves Should be Included.

Virginia objects to including in the valuation of her property, the value of slaves. There was no assessment of the value of slaves before 1863 (certainly not before 1862), because previous to that time only those over 12 years of age were taxable; and an arbitrary assessment was fixed by the *Constitution*, providing that every slave who attained the age of 12 years "shall be assessed with a tax equal to and not exceeding that assessed on land of the value of three hundred dollars;" and that slaves under 12 years shall not be taxed at all. (Const. 1851, art. 4, sec. 23.)

As the rate of levy was 40 cents on every \$100 of assessed valuation, the tax on each slave of 12 years and over was only \$1.20—a mere nominal sum; while all under 12 years were not taxed in any way. Joint Ex. E-1, p. 639 of record, gives the assessed value of slaves in the present state of Virginia at \$250,851,591. The number of slaves in Virginia, by census of 1860, was 491,028, of which 472,494 were in the present State of Virginia, and 18,371 in the present State of West Virginia. (See Aud. Rep. 1861, Plff.'s Ex H-1, p. 75, and Deft.'s Exs. W. Va. 2 and W. Va. 3, pp. 823-5 of record.)

We contend that the slave valuation should be included, because —

First: The said assessed value is less than the real value.

At page 501 of volume 4 of "The South in the Building of the Nation," a work issued just last year, in 12 fine volumes, by Southern Historical Publication Society, Richmond, Virginia, in contrasting the resources of the South with those of the North at the breaking out of the Civil War, it is said:

"The North had about \$11,000,000,000 *taxable values* as against about \$3,000,000,000 in the South, exclusive of slaves, about 3,500,000 in number, who were valued at about \$2,000,000,000"—which is about \$571 per head.

In the Auditor's Report of Virginia, of October, 1865, which is published in an official volume labeled "Documents 1865-6," Auditor Wm. F. Taylor, speaking of the evacuation of Richmond and the surrender of the Confederate armies, says:

"The sudden emancipation of nearly 500,000 slaves, worth to their owners, at a moderate valuation, \$300,000,000 * * * * * " This is \$600 per head.

Judge Alpheus F. Haymond, in an able speech in the Richmond constitutional convention of 1861, in advocacy of an ad valorem taxation of property, including slaves, estimated the value of slaves in Virginia at \$600 per head. (Hall, Rending of Virginia, p. 62.)

The *Virginia Times*, in 1836, estimated the average value of slaves exported out of Virginia at \$600 per head, even at that early date.

In the report of the Auditor of Public Accounts of Virginia for 1858 and 1859, at page 392, there is printed a table showing the resources of the government of that State. It is a significant statement, is headed "The Wealth of Virginia," and is as follows:

The Wealth of Virginia.

Total value of lands, as assessed for taxation	\$315,426,221.34	
Total value of lots, as assessed for taxation	59,563,667.50	\$374,989,888.84
Total value of 511,154 slaves, estimated at \$612.63, that being the ascertained value of slaves in the State of Georgia		313,148,275.02
Total value of personal property assessed for taxation, other than slaves, and such as is named hereafter...		123,560,907.00
Total value of personal property taxed as dividends, interest, etc.		26,855,137.50
Total value of property embraced in business for which a license is required.....		127,411,720.00
Estimated value of property exempt from taxation	\$31,000,000.00	
Value of investments in improvement companies, which are otherwise taxed...	47,000,000.00	78,000,000.00
Making a total value of.....		\$1,043,965,928.36
But as property is assessed for taxation far below its actual value, at least 20 per cent, of the assessed value of lands and personal property may be added, to arrive at the value. The assessed value of lands is \$498,550,795.84. Twenty per cent. of this sum is....		99,710,159.16
Total		\$1,143,676,087.52

In this statement slaves are estimated at over \$600 per head, because that is what they averaged in Georgia, Virginia's best market. The foreign slave trade having been interdicted by act of Congress,

and made piracy, Virginia found it immensely profitable to breed slaves for the Southern cotton plantations.

Second: Because slaves were an exceptionally valuable property, because they were always in demand, were mobile, readily sold for cash, and were steadily increasing in value. As before stated, Virginia found it very profitable to breed slaves for the markets of the South. Her revenue from exportation of slaves was very large. "In the convention of 1829-30, it was stated by a member that the value of slave exports from Virginia reached \$1,500,000 per annum. Four years later it had risen to \$10,000,000." (Hall, *Rending Virginia*, p. 49; see Von Holst, *Cons. and Polit. Hist. of U. S.*, vol. 1, p. 352, note 3.) The Southern slave market was insatiable; prices were good, and demand active. "The slaves imported from the slave breeding states to the cotton plantations remained capable for work, on an average, only seven years. A convention of slaveholders in South Carolina came, after careful discussion, to the conclusion that it was most profitable for the masters to use up the slaves within that time." (Von Holst, *Cons. and Polit. Hist. of U. S.*, vol. 1, p. 354, note 2.)

Kettell, *Southern Wealth and Northern Profits*, p. 130, estimates the value of slaves in 1798 at \$200 per head, and in 1815 at \$250 per head. According to Hall (*Rending of Virginia*, p. 49), United States Senator James H. Hammond of South Carolina, speaking at Barnwell Court House in that State, in October, 1858, said: "In this very quarter of a century our slaves have doubled in numbers and each slave has *more than doubled in value*. The very negro who, as a prime laborer, would have brought \$400 in 1828, would now, *with thirty years more upon him*, sell for \$800."

Third: Because the large number of slaves in Virginia added largely to the cost of running the State government. One item alone charged in this controversy as "ordinary expenses" is "slaves transported and executed, \$311,168.35." Another item, which is proposed to charge up wholly to West Virginia, as an "expenditure" within her limits, is that of \$190,000 on account of the Harper's Ferry raid of poor old John Brown. We are magnanimously told by Virginia that they have refrained from charging West Virginia with the whole cost. But the sum is ridiculously large, though we have no doubt she spent it all, for the slave states lived in almost constant dread of "nigger insurrections"—groundless

fears, but probably good illustration of the old adage, that "a guilty conscience makes cowards of us all." Groundless, because no slaves joined John Brown's "insurrection" to set them free; because when the Civil War came on and the white men of the South went into the army and left their wives and children at home with their slaves, these slaves were faithful, caring for the "misses" and the children, and toiling to raise crops to feed those who were fighting to keep them enslaved. A large portion of the criminal and the military expenses of the Virginia State government was caused by slaves and the presence of free negroes; and these expenses were paid, of course, from the taxes collected off the people. No other property was so tenderly cared for. If a slave committed a felony punishable by death or life sentence in prison, or by extradition, his value—not the insignificant sum he was assessed at, but his market value—was paid his owners from the public treasury. There were other expenses incident to the traffic in and the keeping of slaves, but we forbear to mention them.

Fourth: The Court has directed the Honorable Special Master to apportion the ordinary expenses between the two States on the basis of the fair estimated valuation of property, real and personal, of the two States. Each State is to bear its just portion of these ordinary expenses of the State Government from March 19, 1823, to December 31, 1860. That just portion is to be determined (if the apportionment is not made on population) by the ability of each State to pay; and that ability is to be measured (*just as the individual tax payer's ability is measured to contribute to the support of the government*) by the value of the commercial property under the control of each State—the value of the property from which it may draw a revenue *with which to pay*. Dean Hogg puts it forcibly and tersely on p. 9 of his "Addendum" brief, thus:

"What, then, was the purpose of inserting this clause in the decree? It certainly could be for no other purpose than to ascertain, and have before the court, the resources of the two states respectively upon which taxes may be levied and from which revenues may be derived; in short, to ascertain the taxable resources of the two states as one of the factors entering into the determination of the question as to how the ordinary expenses of the government of Virginia should be distributed between the two states, in

order to assign to West Virginia her just proportion thereof."

It is not too much to say that it would be an outrageous injustice to West Virginia to make this apportionment and leave out the fair value of the enormous slave property of Virginia, which, it is agreed, constituted over \$251,000,000 of the \$711,000,000 of her total taxable values (Jt. Ex. E-1, p. 639), or nearly one-third of the total—a property the care of which entailed so heavy an expense on the public treasury; that was always in demand and readily convertible into cash; that steadily increased in value—a property that was always of full value in the market, but of little value when it came to paying taxes on it—a property that was *more than property*, because its owners voted it, got political power from its ownership and undue representation and power in the legislatures of the State and Nation.

Income Also Should be Included.

Virginia also objects to including in her taxable values the item of \$11,108,300.13 of income on which she levied taxes. Was it not taxable property? Did she not derive benefit from it? Was it not part of her resources? Her own Auditor in 1859 included it in his statement of the wealth of the State. Is the objection made because of the *manner* of taxing it? Suppose all property in Virginia had been taxed according to the income derived from it—which many experts think the best and fairest way—and not by the ad valorem method, would it not be taxable property nevertheless? Does it change its nature and cease to be property, because of the method of levying taxes on it? What is said above under "Fourth," respecting slaves will apply in the main to this matter also.

Depositions of Virginia's Witnesses.

On pages 739-85 of record are printed the depositions of eight witnesses on behalf of Virginia. Presumably the purpose of them is to show by eye-witnesses the devastation wrought in the present State of Virginia, and the consequent depreciation of the value of property therein, prior to June 20, 1863, to substantiate Virginia's contention that the fair value of her real estate was but one-half, and of her personal property but one-fourth, the assessed value as of June 20, 1863. We agree with the characterization of this evi-

dence made by Dean Hogg on pp. 16 and 17 of his "Addendum" brief—that it is incompetent, very vague, indefinite, and altogether unreliable. Many of the witnesses admit that their evidence is of but little value because mere estimates, guesswork, or hearsay.

Major Hunter, p. 742: "Just hazards" opinion that one-half values of the whole State were destroyed before June 20, 1863; although he had seen but a small portion of the State up to that time. Page 745—"I don't think my estimate would be of any value," etc.

Mr. W. W. Scott was not in the Confederate army from July 17, 1862, to November 1, 1863; was during that interval at the Military Institute and in Orange county, p. 747. He therefore saw but little of the State before June 20th. What happened after this does not concern this case. He speaks of the devastation of the "Valley." But this occurred under Sheridan, by order of Grant, and Grant was not in command in the East until March 12, 1864, the date of his commission as Lieutenant General. He makes the assertion, p. 749, that there were ten times more personal property in 1861 than in 1863. If he means prior to June 20th, the official figures contradict him.

Colonel Branch's knowledge of the conditions was confined to the neighborhood of Petersburg, where he was in the provost marshal's department the most of the time during the war (pp. 773-4). The most of his observations are of a time subsequent to July 1, 1863. He speaks of Grant's shelling Petersburg—but this was about the middle of 1864. "*After the war*" he says it took two hours to go from Petersburg to Richmond. The first thing Gen. Grant did, he says, was to cut off the southern route, and "we had then but one railroad left, and that was to Danville." These things, too, occurred long after June 20, 1863..

Major Wellford, p. 763, says the value of slaves was very little affected until after the defeat of Gettysburg and the fall of Vicksburg, July 1-4, 1863. The untrustworthiness of his evidence is illustrated when his opinion (p. 765), that one-half the horses and beef cattle in Virginia had been killed before June 20, 1863, is compared with the assessment figures for 1863. Much of his evidence relates to a time subsequent to June 20, 1863, and much of the remainder is indefinite as to time.

Mr. W. G. Taylor was in Richmond most of the time during the war, p. 768.

Mr. S. H. Hawes testifies, p. 772, that "everything was swept

off;" but *when and where* he does not say. He thinks the depreciation was 50 per cent. (p. 773), as well as "I can remember. *I heard my father speak of it. I didn't sell any myself.*" P. 774: "I can't tell exactly. I wouldn't like to make an estimate." When confronted with facts from the assessor's books of Dinwiddie county for 1863, he criticizes the assessor; these facts didn't agree with his recollections.

Mr. Charles V. Williams's observations about devastation in the Valley evidently refer to the extreme upper part of it; he was not down lower than Staunton, and that was early in 1861, p. 777. He thinks the land values were less than 25 per cent., and personal property values less than 50 per cent., June 20, 1863, compared with 1860 (p. 779). Says personal property "had disappeared *everywhere* pretty largely," that "the horses had been taken, and the cattle eaten up." pp. 778-79-80.

Though Capt. McCabe may have "slept in every man's cornfield in Virginia" (p. 782), it is evident from his deposition that this unusual feat did not occur between the breaking out of the war in 1861 and June 20, 1863; for it shows that he was over a comparatively small part of Virginia between those dates. The sales he mentions on p. 784 are of uncertain date, except that one was in 1865. He says the Westover plantation on James river was a "show place," with carved mantel pieces of Italian marble, made especially for the purpose; that the very wealthy owner was offered \$75,000 for it in 1859; that he sold it some time in 1863 for \$60,000 in Confederate money, which he invested in Confederate cotton bonds, which he believed were good. We are not told at what figure Westover was *assessed*; it is known that "show places," with sculptured Italian marble chimney-pieces, are not an every-day commodity on the market, and when sold are likely to sell for a great deal less than they cost the wealthy esthetic owners. Palaces, mansions, and "show places" like Westover are not built to sell; they are not usually sold, except that death or financial misfortune overtakes the owner, and then nearly always bring a great deal less than they cost.

These witnesses were mostly young men in 1861-63. They were not trained observers, not experts; they testify about things outside the scope of their employment, about things casually observed, about details of conditions merely incidentally seen 46 years before. They were soldiers. A soldier, marching through a country, for instance, or being encamped in it, sees but a small part of it.

If he marched through he would go by the principal highways, and see the country adjacent thereto only; if he went by rail he would see even less. These soldiers saw, first, the country in its normal state; next, with some evidences of devastation; lastly, in the winter of '64 and the spring of '65, they saw it devastated to a great degree. Which scene would make the greatest impression, and be longest remembered? Naturally, that most abnormal, which was the last; and that is what would arise in the memory with the sharpest distinctness when they call up the impression a half century later.

The War Zone in Virginia Prior to July 1, 1863.

The present State of Virginia did suffer most severely by the Civil War. But the great devastation occurred after July 1, 1863. Consideration of this phase involves consideration also of the extent of the territory of Virginia involved in military operations prior to the date named. It will also include consideration of what part of Virginia her witnesses saw whose depositions we have just referred to during the period, April 1, 1861, to July 1, 1863; also examination of the chief objection named by Attorney General Williams and ex-Attorney General Anderson for Virginia, in their criticism, dated February 16, 1910, of the M. & L. Statement and Potter & Dixey's Comparison; which chief objection is that certain counties are omitted from these papers, and that these counties are essential to a fair comparison.

The war zone of the present Virginia prior to July 1, 1863, lies north of a line beginning at Fortress Monroe, thence up the James to Richmond, thence to Harrisonburg, in Rockingham county, except the counties of Princess Anne, Norfolk, Nansemond and Isle of Wight, which lie in the neck between the James and the North Carolina line. These fell into possession of the Federals early in the war, and remained in their possession. Here let it be observed that the question is not, What counties paid taxes into the treasury of the Richmond government? but the question is, What was the devastation or destruction of property in the present State of Virginia? If a county fell into the hands of the Federal government early in the war, and remained there, and there was no fighting in it thereafter, the presumption is strong that its territory was not ravaged.

And in the territory north of the line named there were counties

which saw little of the war. In the Valley during the period named the conflicts were confined mostly to the upper part; practically no fighting below Harrisonburg, and very little that far down; much of it occurred in the neighborhood of Winchester; most of it perhaps took place in Jefferson county, now in West Virginia, in which is Harper's Ferry.

South of this line, with the exception mentioned, there were practically no war operations in the period named. McClellan did not get south of the James, nor did Grant until in 1864.

Messrs. Williams and Anderson (p. 2 of their Comments) name Chesterfield, Clark, Elizabeth City, Fairfax, Fauquier, Frederick, Isle of Wight, James City, King George, Loudoun, Matthews, Nansemond, Norfolk, Prince George, Princess Anne, Prince William, Spotsylvania, Stafford, Warren, Warwick and York, 21 counties out of the 99 in the present State of Virginia, and the cities of Alexandria, Norfolk, Portsmouth and Williamsburg, as being omitted from the M. & L. Statement.

Respecting the cities, Alexandria was not returned separately in 1860 or 1861; it was in the Union lines from the first, and was no more ravaged than Washington City, of which it was and is a suburb. Norfolk, Portsmouth and Williamsburg are in counties from which returns are not published in 1863.

Respecting the counties named, it is admitted that the large and important county of Chesterfield was not in Federal control in 1863; so there is some other reason why its returns are not given in the Auditor's report for that year. It was immediately south of Richmond and separated from it only by the James. But Messrs. Williams and Anderson omit Gloucester county, from which no return is published in 1863; and substituting it for Chesterfield, we still have the 21 counties. Of these, Clarke and Frederick, and also Warren, are in the Valley, and suffered some from the war between 1861 and the middle of 1863. Elizabeth City, York, Warwick, James City, Gloucester, Matthews, Princess Anne, Norfolk, Nansemond, and Isle of Wight, 10 counties in all, were water-front counties; nearly all of them fell into the control of the Federals early in the war, and for the most part were not fought over by contending armies; so that the loss thereby in them would not have been great. Prince George county, up the James and south of it, and surrounded by Confederate territory, was not in Federal control. Fairfax, Prince William, and Stafford, and it may be said also of Fauquier and Loudoun, were in the tread of the march

of the armies from Washington, the National capital, to the Rappahannock and Rapidan. That they suffered somewhat severely from army operations before July 1, 1863, we think there is little doubt. Spotsylvania, in which was the city of Fredericksburg, is south of the Rappahannock and the Rapidan. In the northern part of the county there was considerable fighting in 1862, and from April to May 5, 1863, when Hooker was compelled to recross the Rappahannock. On June 3, 1863, from Fredericksburg, Lee began his second invasion of the North, ending in the battle of Gettysburg. King George county lies between the Potomac and the Rappahannock. There were no campaigns in its territory.

We fail to see the pertinency of the objection, that Accomac and Northampton counties were "occupied and absolutely dominated from 1861 to the close of the war, by the military forces of the United States." They were not devastated by war—and this is the point, and not which side controlled them. They were and are a part of Virginia, and were never a part of West Virginia. If the Federal government preserved their property during the war, so much the better for Virginia.

It should be noted that returns from the large, wealthy and populous Chesterfield county are given in 1860 and 1861, but not given for 1863; and the comparison to that extent is favorable to Virginia, for the returns from Chesterfield in 1861 should be deducted from the figures of Table I of that year, in order to make a fairer comparison with those of 1863.

War Conditions in West Virginia.

If 21 of the 99 counties in the then State of Virginia, or about 20 per cent., were dominated by the Federal government in 1863, Virginia admits (Jt. Ex. E-1, p. 640) that Berkeley, Greenbrier, Hampshire, Hardy, Jefferson, Mercer, Monroe, Morgan, Pendleton, and Pocahontas, 10 counties, in West Virginia, "were for the most part dominated by Confederate forces." This is 20 per cent. of the 50 counties of West Virginia. But there should be included in this list Monroe along by the side of Greenbrier, and McDowell, which was in the same condition as Mercer. To a large extent the same conditions that obtained in Pendleton and Pocahontas existed in Randolph, Webster, Nicholas, Braxton, Barbour and Tucker. In fact, all that portion of the State south of the counties through which the Baltimore and Ohio Railroad ran, from where it entered

West Virginia in Preston, to Grafton in Taylor, and thence to Parkersburg in Wood, except the counties immediately on the Ohio river, there was much Confederate sentiment, and a considerable part of this territory was infested with guerilla or independent companies. This serious condition was a fruitful source of comment in the various messages of Governors Pierpoint and Boreman. The quotations from these messages are too long to insert here. They begin in Governor Pierpoint's message of December 2, 1861, and occupy much space in these papers up to 1866.

In the Auditor's report of October 1, 1861, he says (Senate Journal, 1862, p. 25): "Many counties have been without commissioners of revenue or collectors. In many counties the tax payers have been robbed, or fled from the county to avoid the ravages of the rebel army." In his report for the year 1862, the Auditor says (Journal H. of D. 1862-3, p. 23): "Only 29 out of the 48 counties of the proposed now State have as yet paid anything into the treasury." The Governor says in his message of December 4, 1862, (Journal H. of D. 1862-3, p. 14): "The revenues can be collected in but few counties." In his message dated January 17, 1865, covering the year 1864, Governor Boreman says p. 8: "In the extreme southern counties it has been impracticable to organize civil authority, on account of the frequent invasions of the rebels—these counties being occupied alternately by government and rebel troops."

In the Auditor's report, dated January, 1866, for the fiscal year ending December 31, 1865, p. 3, it is said: "When the last legislature was in session we were still struggling with the Grant Rebellion. Civil law was established in only about one-half of the counties composing the State, and all legislation touching finances was made with reference to that fact." On page 48: "Nearly one-half of our territory was subjected to its [the war's] ravages." "There have been no assessments made in several of the counties for the year 1865." Even in 1866, according to the Auditor's report, dated December 13th of that year, p. 5, taxes had not yet "been assessed in Greenbrier, Logan and Mercer." Even as late as 1867, Governor Boreman, in his message dated January 15th of that year, (p. 5, Senate Journal, 1867,) speaks of bad conditions, defiance of law, and interruptions of civil authorities, "chiefly in four or five counties bordering on the States of Virginia and Kentucky," caused by conditions growing out of the war.

In his report for the year 1865, the County Superintendent of Schools of Wirt county (p. 9 of Rep. of State Supt.) says: "In all probability our former county superintendent failed to report in consequence of the troubles arising from the war, which rendered it very unsafe in Wirt county to transact business." The same officer for Kanawha county, in his report for 1865, p. 20 of the same document, writes: "We have many school houses to build, as the churches and school houses were destroyed more or less during the Rebellion." In his report for 1865, the same officer from Randolph county says: "Our town and county have been much injured during the war, especially along the thoroughfare of the armies. The farms of a great number of our best citizens have been laid open as commons, their stock all gone."

Very much more could be quoted from pertinent official records. But it is not our purpose to go into this phase of the subject in *extenso*. Virginia has depreciated the effects of the war upon West Virginia. Major Hunter says on p. 747 of the record, that there were in Virginia 1004 engagements and skirmishes, and 364 in West Virginia. Both States suffered much, Virginia more than West Virginia, but *by far the greatest devastation and destruction in Virginia were subsequent to June 20, 1863*. In West Virginia, also, there was a phase that did not obtain in Virginia—an internecine war, the result of division of sentiment among the people, a state of affairs peculiarly affecting the safety of life and property. These are facts abundantly substantiated by official records and trustworthy histories.

The evidence in the record respecting conditions in West Virginia is found on pp. 786-801, deposition of ex-Governor Atkinson; pp. 713-24, testimony of ex-Judge J. M. McWhorter; pp. 883-92, 894-98, depositions of Dr. C. I. Lewis, John Slack, Wm. H. Tompkins, J. K. Thompson and Thomas Swinburn; pp. 862-4, agreement of the Attorneys General.

WM. G. CONLEY,
Attorney General.
WM. M. O. DAWSON,
For West Virginia.

Charleston, W. Va., March 4, 1910.

A STATEMENT

Showing the *number* of each of the following named subjects of taxation in the present State of Virginia for the year 1860, made up from the Auditor's Report for 1861 (Plaintiff's Exhibit "H-1").

TABLE I.

Table I includes the same territory (same counties, etc.) as is named in McClintic and Lightfoot's "Extracts from the Personal Property Books of Virginia for the year 1863." Table II, following, includes the rest of the territory of Virginia.

COUNTIES AND CITIES.	Horses, Mules, Asses & Jennets.	Pleasure Carri- ages and Other Vehicles.	Cattle.	Sheep.	Hogs.	Watches.	Clocks.	Pianos & Harps.
Accomack.....	2,921	1,001	10,348	17,352	---	386	1,006	35
Albemarle.....	6,254	727	12,943	32,253	---	1,085	1,267	209
Alexandria.....	590	203	786	287	---	788	689	158
Allegheny.....	1,450	88	2,861	6,760	---	238	349	13
Amelia.....	2,107	402	1,752	3,402	---	232	266	52
Amherst.....	2,796	249	6,215	7,135	---	266	359	45
Appomattox.....	1,774	332	4,727	8,839	---	216	356	22
Augusta.....	9,637	1,262	22,327	30,421	---	1,232	1,900	142
Bath.....	1,365	86	5,113	7,989	---	156	366	16
Bedford.....	551	475	14,979	34,530	---	567	966	77
Botetourt.....	3,117	374	7,335	14,954	---	412	939	42
Buchanan.....	503	---	3,127	6,443	---	15	74	---
Brunswick.....	2,675	598	9,852	21,787	---	352	310	73
Buckingham.....	2,941	509	7,847	15,415	---	390	413	93
Campbell.....	3,536	599	7,326	13,882	---	884	1,065	183
Caroline.....	3,552	998	8,835	15,882	---	601	642	88
Carroll.....	1,351	68	5,849	19,273	---	140	578	2
Charlotte.....	2,902	666	7,622	19,142	---	464	511	74
Chesterfield.....	2,771	734	4,176	13,017	---	631	950	109
Craig.....	1,122	50	3,444	7,168	---	87	295	4
Culpepper.....	3,503	305	11,022	22,477	---	312	594	81
Cumberland.....	2,057	413	3,849	10,349	---	337	342	95
Charles City Co.....	1,258	226	2,546	6,060	---	173	53	31
Dinwiddie.....	2,118	558	7,235	14,489	---	365	389	71
Petersburg.....	629	250	253	127	---	1,319	1,012	277
Essex.....	1,778	483	5,516	9,846	---	303	387	72
Floyd.....	1,644	58	5,962	16,519	---	93	474	1
Fluvanna.....	2,107	475	4,971	7,995	---	258	628	46
Franklin.....	2,122	259	13,112	25,064	---	274	686	10
Giles.....	1,954	96	6,202	15,344	---	161	432	16
Grayson.....	2,130	97	7,109	21,379	---	93	391	---
Goochland.....	2,388	374	5,145	9,767	---	291	401	50
Greene.....	1,254	82	2,473	6,288	---	129	221	8
Greensville.....	1,183	240	4,131	11,495	---	128	107	37
Halifax.....	5,245	1,005	13,168	25,562	---	794	714	111
Hanover.....	3,356	574	7,368	13,959	---	341	402	70
Henrico.....	3,329	696	3,419	6,640	---	695	987	216
Richmond City.....	1,087	455	324	174	---	2,232	1,756	631
Henry.....	2,187	347	5,782	13,922	---	287	533	32
Highland.....	1,942	62	4,352	16,844	---	113	416	7
King and Queen.....	1,760	687	6,574	12,169	---	305	84	66
King William.....	1,808	346	3,516	7,546	---	202	104	40
Lancaster.....	879	303	2,498	6,159	---	143	193	21
Lee.....	3,410	66	10,084	32,780	---	194	528	2
Louisa.....	3,457	691	8,484	16,833	---	401	506	94
Lunenburg.....	2,158	465	6,796	14,782	---	291	391	77
Madison.....	2,521	208	6,652	14,666	---	250	569	37
Middlesex.....	782	302	3,009	5,841	---	159	228	11

TABLE I—1860.—(*Continued*).

COUNTIES AND CITIES.	Horses, Mules, Asses & Jennets.	Pleasure Carria- ges and Other Vehicles.	Cattle.	Sheep.	Hogs.	Watches.	Clocks.	Pianos & Harps.
Mecklenburg	3,953	680	11,219	22,419	----	473	395	103
Montgomery	2,350	220	7,616	13,441	----	250	473	36
Nelson	2,634	239	5,130	14,833	----	238	462	39
New Kent	1,008	221	2,386	5,027	----	141	75	24
Northampton	1,599	531	3,813	10,380	----	259	273	22
Notthumberland	1,049	356	4,794	7,144	----	155	272	18
Nottoway	1,604	476	4,984	10,856	----	285	273	51
Orange	2,991	376	6,599	13,459	----	336	539	74
Page	2,555	215	6,074	13,335	----	348	909	27
Patrick	1,646	190	6,169	15,098	----	132	484	9
Pittsylvania	5,386	921	14,525	28,462	----	687	925	86
Danville	157	94	80	42	----	201	107	33
Powhatan	1,868	430	3,860	8,702	----	281	320	73
Prince Edward	2,115	523	3,844	10,767	----	488	472	104
Pulaski	1,503	126	6,575	12,343	----	185	374	18
Rappahannock	2,477	147	8,382	14,192	----	155	475	37
Richmond	962	304	2,310	5,943	----	132	357	22
Roanoke	2,168	269	5,080	10,850	----	272	511	32
Rockbridge	5,104	593	13,355	24,509	----	737	1,381	92
Rockingham	7,670	680	21,413	33,840	----	729	2,200	44
Russell	3,317	65	12,513	26,701	----	170	476	-----
Scott	3,333	43	10,735	34,958	----	203	554	4
Shenandoah	4,627	333	11,438	19,209	----	599	1,763	30
Smythe	2,626	76	8,205	16,215	----	181	568	8
Southampton	2,355	562	6,808	28,049	----	325	284	35
Surry	1,032	290	2,540	8,046	----	208	225	25
Sussex	1,870	531	5,893	16,754	----	293	133	65
Tazewell	3,300	91	13,427	26,231	----	152	570	5
Washington	5,009	195	11,382	30,882	----	363	1,015	39
Westmoreland	1,419	272	5,255	7,831	----	128	150	28
Wise	798	7	3,698	12,463	----	63	200	-----
Wythe	3,615	151	10,570	23,473	----	357	899	30
	200,061	29,580	549,692	1,177,461	----	29,361	45,143	4,860

Hogs and sheep not separately returned in 1860; the numbers under "Sheep" in above table include both sheep and hogs. See Aud. Rep. (Plff.'s Ex. H-1), p. 612.

Virginia vs. West Virginia.

TABLE II.—1860.

Table II covers the territory not covered in McClintic and Lightfoot's "Extracts from the Personal Property Books of Virginia for the year 1863" and in Table I, *ante*.

COUNTIES AND CITIES.	Horses, Mules, Asses & Jennets.	Pleasure Carria- ges and Other Vehicles.	Cattle.	Sheep.	Hogs.	Watches.	Clocks.	Pianos & Harps.
Clarke.....	2,901	321	5,054	14,747	---	286	469	67
Elizabeth City County.....	749	181	2,278	4,422	---	197	226	42
Fairfax.....	3,010	514	6,820	9,878	---	301	601	49
Fauquier.....	6,546	469	26,342	40,753	---	585	1,112	144
Frederick.....	4,769	598	9,042	19,133	---	792	1,642	110
Gloucester.....	1,454	542	5,510	11,291	---	225	340	53
Isle of Wight.....	1,490	483	5,834	16,422	---	260	368	43
James City.....	890	241	2,444	4,674	---	223	217	59
King George.....	1,475	266	4,074	5,626	---	180	203	34
Loudoun.....	8,292	923	22,712	29,083	---	819	2,136	121
Mathews.....	707	280	2,675	5,189	---	135	160	27
Nansemond.....	1,753	589	5,101	17,620	---	372	338	60
Norfolk County.....	1,930	414	6,399	9,815	---	288	305	45
Prince George.....	1,620	357	2,887	7,692	---	286	242	62
Princes Anne.....	1,765	470	7,328	15,136	---	264	464	22
Prince William.....	2,410	307	6,914	13,153	---	304	704	45
Spotsylvania.....	2,580	719	6,173	10,129	---	705	881	131
Stafford.....	1,734	197	5,020	7,171	---	165	392	30
Warren.....	1,770	104	5,094	9,629	---	157	444	30
Warwick.....	381	98	1,168	3,003	---	47	54	6
York.....	717	186	2,984	4,525	---	72	145	10
Norfolk City.....	283	503	58	30	---	1,038	935	323
Portsmouth.....	122	53	51	28	---	379	155	99
Williamsburg.....	147	78	170	92	---	105	92	41
Totals.....	49,495	8,693	142,128	259,241	---	8,185	12,625	1,659

As to sheep and hogs, see note at bottom of Table I, above.

A STATEMENT.

Showing the *number* of each of the following named subjects of taxation in the present State of Virginia for the year 1861, made up from the Auditor's Report for 1861, (Plaintiff's Exhibit "H-1").

TABLE I.

Table I includes the same territory (same counties, etc.) as is named in McClintic and Lightfoot's "Extracts from the Personal Property Books of Virginia for the year 1863." Table II, following includes the rest of the territory of Virginia.

COUNTIES AND CITIES.	Horses, Mules, Asses & Jennets.	Pleasure Carria- ges and Other Vehicles.	Cattle.	Sheep.	Hogs.	Watches.	Clocks.	Pianos & Harps.
Accomack.....	3,055	1,052	10,277	3,727	15,834	423	995	40
Albemarle.....	6,411	724	13,616	11,466	22,123	1,075	1,235	218
Alexandria.....								
Allegheny.....	1,489	124	3,344	2,433	5,508	227	401	17
Amelia.....	2,065	420	4,979	4,975	8,929	239	247	54
Amherst.....	2,841	274	6,937	1,485	13,542	293	450	57
Appomattox.....	1,867	377	4,651	4,096	8,444	268	458	23
Augusta.....	9,939	1,392	22,657	11,915	24,884	1,298	1,856	154
Bath.....	1,409	90	5,150	5,242	3,730	154	365	16
Bedford.....	5,887	548	14,537	9,136	13,113	688	1,373	98
Bland.....	986	25	2,982	3,853	4,196	52	191	2
Botetourt.....	3,163	328	7,908	5,292	11,680	421	950	43
Buchanan.....								
Brunswick.....	2,725	608	9,850	7,264	20,013	354	365	77
Buckingham.....	2,995	549	7,631	6,630	11,622	405	441	87
Campbell.....	3,596	623	8,292	5,899		895	1,135	190
Caroline.....	3,590	1,032	8,757	5,985	11,953	641	730	97
Carroll.....	1,428	81	6,361	8,579	13,778	178	611	4
Charlotte.....	3,091	647	7,718	8,351	14,652	457	506	79
Chesterfield.....	2,777	754	4,766	3,474	11,887	660	995	109
Craig.....	1,114	49	3,597	3,445	5,449	98	318	1
Culpepper.....	3,637	247	10,038	14,318	11,383	388	656	89
Cumberland.....	2,083	440	4,494	4,622	5,571	305	251	88
Charles City.....	1,309	245	2,619	1,401	5,898	187	81	34
Dinwiddie.....	2,302	548	7,507	4,071	16,758	387	431	71
Petersburg.....	610	267	436	29	29	1,232	383	253
Essex.....	1,796	490	5,376	3,458	7,651	302	384	73
Floyd.....	1,710	78	6,427	7,548	12,077	101	541	2
Fluvanna.....	2,115	466	4,952	2,814	8,222	267	615	46
Franklin.....	4,098	350	12,139	9,182	20,326	327	759	14
Giles.....	2,014	95	6,111	7,337	10,382	177	424	16
Grayson.....	2,251	99	7,302	10,336	15,693	154	423	2
Goochland.....	2,378	400	5,084	3,957	8,122	274	407	53
Greene.....	1,301	99	2,477	1,772	5,336	134	205	9
Greeneville.....	1,220	262	4,103	2,033	11,307	132	173	28
Halifax.....	2,247	423	6,017	4,438	11,325	244	76	46
Hanover.....	3,387	644	6,086	4,695	11,284	329	720	79
Henrico.....	3,452	777	3,738	1,169	7,313	886	1,099	211
Richmond City.....	964	568	479			2,143	1,716	634
Henry.....	2,343	364	5,675	3,953	12,505	294	616	33
Highland.....	1,963	62	8,661	9,306	3,785	100	400	8
King and Queen.....	1,834	729	6,614	4,073	11,046	332	127	75
King William.....	1,895	408	3,933	3,488	5,717	262	114	46
LANCASTER.....	845	329	3,041	1,514	5,013	164	214	18
Lee.....	3,693	72	10,523	11,165	29,944	220	451	2
Louisa.....	3,555	704	8,571	5,990	13,627	451	543	98
Lunenburg.....	1,122	506	6,890	6,691	14,352	341	422	78
Madison.....	2,486	199	6,586	4,854	11,525	238	580	40

TABLE I.—1861.—(Continued).

COUNTIES AND CITIES.	Horses, Mules, Asses & Jennets.	Pleasure Carria- ges and Other Vehicles.	Cattle.	Sheep.	Hogs.	Watches.	Clocks.	Pianos & Harps.
Middlesex.....	809	309	3,006	1,855	5,238	168	241	13
Mecklenburg.....	4,094	884	10,906	10,761	23,323	568	553	121
Montgomery.....	2,523	244	8,136	27,00	13,100	330	683	36
Nelson.....	2,654	254	6,031	3,656	11,891	245	463	41
New Kent.....	1,044	254	2,447	1,437	4,909	180	103	23
Northampton.....	1,506	539	3,946	2,610	7,635	265	303	22
Northumberland.....	1,147	390	4,931	3,059	6,672	160	309	17
Nottoway.....	1,627	391	5,090	3,898	10,625	302	277	50
Orange.....	3,060	388	7,260	6,554	10,704	377	500	79
Page.....	2,538	225	6,443	4,385	10,933	391	921	28
Patrick.....	1,668	124	6,198	3,850	13,820	141	462	12
Pittsylvania.....	5,374	889	14,041	10,959	20,683	693	962	88
Danville.....	164	89	129	4	40	219	116	35
Powhatan.....	1,953	439	4,480	4,041	7,820	300	348	74
Prince Edward.....	2,167	532	5,254	4,670	9,057	489	471	105
Pulaski.....	1,569	144	6,369	6,037	7,976	222	380	21
Rappahannock.....	2,517	141	8,416	5,707	8,713	141	464	34
Richmond.....	998	319	4,627	1,867	7,650	143	358	23
Roanoke.....	2,223	276	5,096	3,304	7,879	325	570	38
Rockbridge.....	5,201	614	13,151	8,838	17,601	771	1,638	102
Rockingham.....	7,827	659	19,664	11,618	25,586	846	2,132	49
Russell.....	3,343	55	12,983	14,552	17,805	214	537	-----
Scott.....	3,380	47	10,775	13,932	29,694	248	495	4
Shenandoah.....	4,593	362	12,121	7,376	14,133	620	1,756	32
Smythe.....	2,693	102	8,313	10,153	9,368	208	590	9
Southampton.....	2,378	570	7,163	4,455	25,976	360	292	43
Surry.....	1,061	296	2,883	1,652	8,709	229	241	24
Sussex.....	1,895	548	5,760	3,585	18,038	293	192	66
Tazewell.....	3,518	88	14,424	12,790	17,791	166	695	8
Washington.....	5,952	466	12,267	13,743	21,981	410	1,323	50
Westmorland.....	1,419	277	5,253	2,420	6,372	145	197	31
Wise.....	822	7	3,894	4,585	11,102	62	194	-----
Wythe.....	3,410	204	10,531	9,687	14,126	392	793	32
Totals.....	206,367	30,694	561,857	452,503.	932,488	29,820	45,992	4,827

Bland county not formed until after 1860. It was taken from Wythe, Tazewell and Giles. Aud. Rep. (Plff.'s Ex. H-1) p. 611.

TABLE II.—1861.

Table II covers the territory not covered in McClintic and Lightfoot's "Extracts from the Personal Property Books of Virginia for the year 1863" and in Table I, *ante*.

COUNTIES AND CITIES.	Horses, Mules, Asses & Jennets.	Pleasure Carria- ges and Other Vehicles.	Cattle.	Sheep.	Hogs.	Watches.	Clocks.	Pianos & Harps.
Clarke	2,932	324	5,376	8,350	8,515	294	508	74
Elizabeth City Co.								
Fairfax	3,092	610	7,169	3,175	6,658	337	599	54
Fauquier	6,764	551	24,932	25,696	18,959	666	1,249	145
Frederick	4,933	634	8,922	10,200	12,342	843	1,726	112
Gloucester	1,430	524	5,594	2,630	9,277	231	330	54
Isle of Wight	1,527	484	5,035	2,498	17,407	283	435	48
James City Co.	950	255	2,631	696	5,082	246	243	58
King George	1,479	284	3,909	2,841	4,336	189	224	32
Loudoun	8,060	1,009	21,326	12,803	19,184	859	2,325	115
Mathews	723	293	2,564	894	4,338	131	135	28
Nansemond	1,886	614	5,354	2,002	20,292	429	489	61
Norfolk Co.	1,926	422	6,281	921	10,099	290	213	51
Prince George	1,659	363	2,988	1,649	9,191	277	252	60
Princes Anne	1,899	474	7,013	3,199	15,116	157	444	22
Prince William	2,463	320	6,623	7,731	7,386	291	677	46
Spottsylvania	2,561	743	6,156	4,255	7,911	747	903	143
Stafford	1,715	205	4,864	2,935	5,658	175	373	31
Warren	1,815	123	5,097	5,227	6,284	180	481	31
Warwick	430	90	1,447	456	2,984	41	59	9
York	719	204	2,779	749	4,388	69	146	15
Norfolk City								
Portsmouth	92	51	67			381	130	106
Williamsburg	148	75	210	35	36	117	84	39
Totals	49,203	8,652	136,337	98,762	195,443	7,233	12,025	1,334

IN THE
Supreme Court of the United States

VIRGINIA

v.

WEST VIRGINIA.

**Argument of Hon. Charles E. Hogg on Behalf of the Defendant.
Before Special Master Charles E. Littlefield.**

NOVEMBER 5 and 6, 1909.

Mr. Hogg: If the Master please, I certainly appreciate, as fully as any one at all connected with this case, its magnitude and its importance. I am deeply sensible, also, of my inability to render to the Master that aid that I gladly would render if I had the ability.

Following the order of this case, as laid out by the decree, I begin with the first paragraph, with reference to the amount of the debt, how created, and for what purpose.

It is important to ascertain the exact date at which the creation of this debt began; not only to ascertain the exact amount of the indebtedness, but also from some other aspects of this decree.

I am, therefore, led to inquire what constitutes the debt in this case? When did it begin? And what are the items that make the aggregate indebtedness of the State of Virginia, a just proportion of which West Virginia was to take upon herself or to assume?

According to the page of the record, 334, on July 1st of this year, the parties agreed and entered of record the date at which this in-

debtedness commenced, and that was on March 19, 1823; so that the time when the debt begins cannot be a matter of controversy.

The bill does not state, nor does it pretend to state, the exact amount of this debt, but alleges it to be about \$33,000,000.

The parties are agreed as to the amount of this debt, with the exception of three matters, so that the difference between them now amounts to \$2,639,982.29; this difference arises by regarding the amounts held by the Sinking and Literary Funds and the board of public works of the Commonwealth of Virginia as part of the debt. We have said that the Literary Fund and the Sinking Fund and the Commissioners of the board of public works are mere financial agencies of the State, and the holdings of these agencies are simply the holdings of the State, and represent the ownership of the State.

In order that we may fully understand the nature of this Literary Fund, I wish to call attention to the purpose of its creation, which, as I now recollect, was definitely determined by an Act of the Legislature of Virginia as early as 1811, and the proceeds allotted to this Fund were to be appropriated to educational purposes by virtue of Acts of the Legislature made from time to time for that purpose.

In 1860 all the laws then in force in Virginia of a general nature were codified, and the whole law relating to the Literary Fund was embodied in the code of 1860. Chapter 78 of the Code, at page 414, provides how this fund shall be invested, and it appears in Section 8 of Chapter 78 of the Actes. This enactment is made up of various Acts passed at different times in the history of the legislation of the State relating to this Fund, and all the law in force in 1860 is found in this Code:

“The said board, from time to time, shall invest all the unappropriated capital and income of the Literary Fund in certificates of debt of the United States or certificates of debt of or guaranteed by this State, or in stocks of banks incorporated by it; and the said board may call in any such investment or any heretofore made, and re-invest the same as aforesaid whenever deemed proper for the preservation, security or improvement of the said Fund. Whenever, in accordance with this section the board shall invest the unappropriated capital and income of the Literary Fund in original certificates of debt of

this State, no premium shall be required or paid on such investment."

There is a provision of the law of the State in force in 1861 in the Commonwealth of Virginia, giving authority to this State agency to invest in certain securities the surplus funds held by this board. In the exercise of that power, this surplus fund was invested in the securities of debt of the State, and in 1861 it held these securities, and held them, as a matter of course, for the purposes of the State; and as an inducement that they might make these investments the latter clause of this section provides:

"No premium shall be required or paid on such investment."

The moment that investment was made, it became the property of the State—as much so under this Act as it was possible for the State to hold property.

Now, Sections 4 to 7 of this Act, inclusive, provide how the duties of the Commissioners of the Literary Fund with reference to this money may be exercised; and Section 9 provides that the Second Auditor, another State officer, shall be the accountant of the Literary Fund. It also provides that he shall, subject to the control of the board, exercise any of their powers, and that he shall not, without their special authority entered on the journal of their proceedings, dispose of any of the money or property belonging to the Literary Fund. In other words, they are to co-operate with another public officer of the State, known as the Second Auditor, in disposing of these funds, and making such investments.

It seems to me that an examination of this Act, Chapter 78, Code of Virginia 1860, clearly shows how this fund is created, how it shall be appropriated, the manner in which it shall be used, and how it may acquire securities—all intended for the promotion of education within the Commonwealth.

The statute expressly provides that a certain amount shall be distributed for common education. It provides that a certain amount shall go for the support of the Virginia Military Institute, in the manner provided by law. It provides also that a certain amount of it shall be paid over to the University of Virginia for educational purposes, and defines the extent of the use of this money

for these purposes, and makes it as clearly a State fund under the control of the State as it is possible to have a fund ready and available for use.

We, therefore, conclude that this is clearly a State agency, and that that part of the public debt which is charged as an existing liability on the part of Virginia as of January 1, 1861, is not a debt.

That accounts for a part of the difference going to make up the two million and some hundred thousand dollars between the plaintiff and the defendant as to the aggregate amount of the entire indebtedness of January 1, 1861.

Mr. Conrad: Mr. Hogg, would it disturb you if I asked you a question?

Mr. Hogg: Not at all.

Mr. Conrad: I ask it really for my information. Could the Legislature of Virginia have directed the Commissioners of the Sinking Fund or the Literary Fund to turn that money over?

Mr. Hogg: For other purposes?

Mr. Conrad: Yes.

Mr. Hogg: No; that fund was not to be diverted. It was a special fund to be applied to specific purposes, if your Honor please.

Mr. Conrad: That is right.

Mr. Hogg: But that makes it none the less a fund under the control of the Commonwealth. It was not a constitutional contrivance. It was not a constitutional institution, but it was at the will of the legislative body of the Commonwealth?

The Special Master: What is the reason they could not divert it?

Mr. Hogg: I say they could abolish it.

The Special Master: What is the reason they could not divert it to some other purpose?

Mr. Hogg: They could have diverted it if they desired to do so, but not under existing legislation.

The Special Master: That was not my question.

Mr. Hogg: Oh, certainly they could. I am speaking in the light of existing legislation.

The Special Master: You mean the body created to exercise the functions could not divert it without getting authority?

Mr. Hogg: Yes. I answered Major Conrad in the light of

existing legislation. His question was misleading. I wish to make myself clear on that point. It was a fund created at the will of the legislative body, and they had said that it should be devoted to these purposes. As long as the law remained as it existed in the Code of 1860, they could not divert it.

The Special Master: Do you understand, Professor, that that fund, on the 1st of January, 1861, aggregated \$1,085,067.33 as the holdings by the Literary Fund?

Mr. Hogg: The holdings of the Literary Fund, as of January 1st, amounted, in principal and interest, to \$1,116,843.35.

The Special Master: Your contention is that that was an asset of the State of Virginia?

Mr. Hogg: Yes, sir.

The Special Master: In what was that asset invested?

Mr. Hogg. That asset was invested in bonds of the State. They held these bonds.

The Special Master: And those bonds in which that money was invested make that a part of the aggregate indebtedness, accounted for elsewhere?

Mr. Hogg: That makes part of the \$36,534,056.09, as claimed by the plaintiff, as constituting the aggregate indebtedness of the Commonwealth.

The Special Master: Your contention is that this should not be added?

Mr. Hogg: That it should not be added.

The Special Master: And they have it added?

Mr. Hogg: They have it added.

The Special Master: Your contention is that the indebtedness is already considered in the aggregate, and this fund on hand is simply an asset invested in the bonds of the State?

Mr. Hogg: Yes, and should not be included in the so-called aggregate indebtedness, of which West Virginia was to assume her just proportion.

The Special Master: Your claim, in substance, is that if added it results in computing it twice? That is your contention?

Mr. Hogg: My contention is that it is not a liability.

The Special Master: I understand; that it is an asset. They added it as a liability, if I get your contention?

Mr. Hogg: Whatever the bonds were worth, they were available for their purposes. In other words, they could have passed an act

abolishing the Literary Fund, and use it for some other purpose.

The Special Master: If you understand the contention of the plaintiff right, they add this Literary Fund to the amount of the indebtedness?

Mr. Hogg: Yes.

The Special Master: And treat it as a liability on the part of the State to her Literary Fund? Is that right?

Mr. Hogg: That is the way they treat it. They treat it as a liability to their Literary Fund, as a part of the public debt.

The Special Master: Well, if it is a liability to anybody, it must be a liability to the Literary Fund?

Mr. Hogg: Yes.

Mr. Anderson: The Commissioners of the Literary Fund.

Mr. Hogg: Yes, it is the same thing. They also include, in this aggregate of \$36,534,056.09, the amount of \$1,369,243.92, as held by the Commissioners of the Sinking Fund.

The Special Master: That is principal and accrued interest?

Mr. Hogg: The principal and accrued interest; yes, sir.

Now, the Sinking Fund originated with the framing of the Constitution of Virginia, in 1851. It is found in Article 4, Section 29, of that Constitution, and appears at page 46 of the Code of 1860, and it is found with the Code as an appendix:

“There shall be set apart annually, from the accruing revenues, a sum equal to seven per cent. of the State debt existing on the first day of January in the year one thousand eight hundred and fifty-two. The fund thus set apart shall be called the Sinking Fund, and shall be applied to the payment of the interest of the State debt, and the principal of such part as may be redeemable. If no part be redeemable, then the residue of the Sinking Fund, after the payment of such interest, shall be invested in bonds or certificates of debt of this Commonwealth, or of the United States, or of some of the States of this Union, and applied to the payment of the State debt as it shall become redeemable. Whenever, after the said first day of January, a debt shall be contracted by the Commonwealth, there shall be set apart in like manner, annually, for thirty-four years, a sum exceeding by one per cent. the aggregate amount of the annual interest agreed to be paid there-

on at the time of its contraction; which shall be part of the Sinking Fund, and shall be applied in the manner before directed. The General Assembly shall not otherwise appropriate any part of the Sinking Fund or its accruing interest, except in time of war, insurrection or invasion.”

You will perceive, from that part of the Constitution of the Commonwealth of Virginia, that this Sinking Fund shall be kept inviolate, and that seven per cent. of the revenues collected, based upon the aggregate amount of the public debt, beginning with January 1, 1853, shall go into this fund, and that the money thus assembled into that fund shall be applied to the payment of the interest on the public debt and the redemption of such of the outstanding indebtedness of the State as may be from time to time redeemable.

The State of Virginia subsequently passed an act carrying out, or rather carrying more effectually into effect, this clause of the organic law of the State, and it appears in the Code, at Chapter 45 :

“There shall be and is hereby appropriated annually, from the Treasury, commencing with the year one thousand and eight hundred and fifty-three, out of the accruing revenues of the Commonwealth the sum of eight hundred and thirty-eight thousand and twenty-eight dollars and sixty-eight cents, that being seven per centum on eleven million nine hundred and seventy-one thousand eight hundred and thirty-eight dollars and thirty cents, the ascertained debt of the Commonwealth on the first day of January, 1852. The sum so set apart”—

Of the revenues, of course, of the Commonwealth of Virginia—

“—shall be called ‘The Sinking Fund,’ and shall be applied as follows: So much of said fund as arises from the seven per centum on the debt existing on the first day of January, eighteen hundred and fifty-two, together with the proceeds of the sales of bank stocks, shall be applied to the redemption of such part of this debt as may be redeemable; and if no part thereof be redeemable, the said residue shall then be devoted to the purchase at their market value, and cancellation of any outstanding bonds or certificates of said debt; and so much of

said fund as arises from one per centum on the debt created since the first day of January, eighteen hundred and fifty-two, shall be invested in the outstanding bonds or certificates of the said debt, at their market value, and held by said Commissioners for the benefit of said fund.”

Mr. Lightfoot: If you will allow me to correct you, Professor, you referred to that chapter as Chapter 45.

Mr. Hogg: It is Chapter 44. I am much obliged to you.

Mr. Lightfoot: It is printed in the Appendix.

Mr. Hogg: I am much obliged to you.

It will be observed that this fund belongs to the Commonwealth of Virginia, under the Constitution and laws, for a specific available purpose. This purpose is distinctly defined in the law of its creation, the act making more effectual the constitutional provision creating it.

Now, it provides that if no part of the debt is redeemable out of the very large sum annually appropriated, the seven percent. of the aggregate amount of the indebtedness, then said residue shall be devoted to the purchase, at their market value, and cancellation, of any outstanding bonds or certificates of said debt. Then they have a right, not only to purchase, but they have a right to invest at their market value, and hold them for the purposes of the Sinking Fund.

What were the purposes of the Sinking Fund? To be applied to the liquidation of the interest, first, the debt as it matured, or its purchase, whichever in the discretion of the board they could do best.

That was a fund, then, for what? It was a fund for Virginia to use in the liquidation of her debt; and when she purchased a bond in the market, she had a right to cancel it, because she was then accomplishing the very object for which the Sinking Fund was created. If she went into the market and bought, at the market value, and they were assembled as purchased in the hands of the Commissioners, she had then done what the object of the Sinking Fund had in view, a discharge of the indebtedness and the interest as it accrued from time to time.

It seems to us that this was a State agency, with well-defined powers, created as such by the Constitution, made more effectual

by her legislation, and that all of these bonds, which they say were a part of their indebtedness, were not a liability existing against Virginia for which she was liable to any one, but that these bonds were bonds in the full possession and control of the Commissioners of the Sinking Fund, just as much so as if she had discharged them by redeeming them.

We, therefore, say that that money is not an existing indebtedness, within the meaning of the ordinance of August 20, 1861, or within the meaning of the Constitution of 1862.

The Special Master: The amount here sought to be charged on account of the Sinking Fund represents the bonds thus purchased by the Sinking Fund?

Mr. Hogg: By the Sinking Fund, the object of the Sinking Fund being to liquidate the interest.

The Special Master: Your contention is that it extinguished the interest?

Mr. Hogg: That is extinguished the interest.

The Special Master: Their contention is that it is still outstanding?

Mr. Hogg: That it is still outstanding and that it is an existing liability, enforceable, so far as it may be enforced, against the Commonwealth of Virginia. That, we contend, is not borne out by the history of the creation of the Sinking Fund and the purposes for which it was established.

The Special Master: That differentiates the Sinking Fund considerably from the Literary Fund.

Mr. Hogg: I will come to that presently. I am treating this now concretely. I will come to the question of debt as an abstract proposition. I am addressing myself now to the status of this Fund with reference to the laws of Virginia as we find them when the compact was made between the two State, leading to the formation of a new State.

The Special Master: Let me make this inquiry. Is the sum of \$1,329,557.20 wholly composed of the bonds of the State of Virginia thus purchased with the Sinking Fund?

Mr. Hogg: Yes, sir, it is. Of course when I say \$1,369,243.92, I include in that \$100,000 of interest on a debt bearing five per cent. interest and \$38,686.72 on bonds, aggregating \$1,200,557.20; so that the final aggregate is \$1,369,243.92.

Now, there is another item of difference that goes to make up this \$2,696,000.00 of difference. That is what it is after—

The Special Master: After deducting the interest that it is agreed is a part of the debt?

Mr. Hogg: Yes.

The Special Master: That is, deducting the \$977,000?

Mr. Hogg: Yes, sir. Now, there is the holding by the board of public works, amounting to \$146,500, and interest amounting to \$4,395.00, aggregating \$158,895.00. The board of public works—

The Special Master: Let me make this inquiry. The \$1,329,577.20, is, of course, in their aggregate of \$36,534,056.09?

Mr. Carlisle: All these three items.

Mr. Hogg: These three items, the Literary Fund, the Sinking Fund, and the board of public works.

I wish to address myself for a few moments to this amount of bonds held by the board of public works.

The board of public works is a creature of the Virginia Constitution, and is made a part of the executive branch of their government, as appears from the Constitution of 1851, Article 5, Section 14; and in order that your Honor may see just what this agency is, I will direct your attention to that part of the Constitution providing for the creation of the board of public works:

“There shall be a board of public works, to consist of three Commissioners. The State shall be divided into three districts containing, as nearly as may be, equal numbers of voters, and the voters of each district shall elect one Commissioner, whose term of office shall be six years, but after those first elected, one to be designated by lot shall remain in office for two years only. One other to be designated in like manner, shall remain in office for four years only.”

It appears that the maximum term was ultimately to be six years.

Then Section 15 of the Constitution provides that:

“The General Assembly, at its first session after the adoption of this Constitution, shall provide for the election and compensation of the Commissioners, and the organization of the board. The Commissioners first elected shall assemble on

a day to be appointed by law, and decide by lot the order in which their terms of office shall expire.”

Then it goes on with Sections 16, 17 and 18, giving the General Assembly power to carry into operation these provisions of the Constitution.

Accordingly, the Legislature did undertake to provide by law the powers and duties of the board of public works.

I will say to your Honor now, without detaining you too long in regard to this particular branch, that this entire Chapter 66 of the Code, composed of twenty-four different sections, shows clearly what the duties of this board were at that time, and what their powers were, as a part of the executive branch of the Government of Virginia, and clothed them with the power to have and control the funds for internal improvements.

Now, there was a board of public works, unless I am mistaken, in the history of the legislation of Virginia, prior to the formation of the Constitution of 1851. If I am not correct in reciting this history, of course my distinguished friends on the other side will correct me; but it was composed of certain officers of the State who officiated in the capacity of managers of the Fund of Internal Improvement.

In order to create an interest in this matter and to devolve duties upon these Commissioners as the work of internal improvement progressed, and it developed and become more varied and extensive, it became necessary to make them officers, just as they had a Secretary of State, or Governor, or any other executive officer; and it was made their duty to give personal attention to this fund of Internal Improvement. This Board of Public Works had the right to subscribe for stock in works of internal improvement. They had the right to attend sales of works of internal improvement where they were offered for sale under a decree of court, or in the execution of a trust deed. They were also entrusted with the management of the fund that came in from works of internal improvement, and they had the power of investment, subject, however, to the control of the Legislature of Virginia.

In the exercise of their power as a board of public works, after the creation of this board by the Constitution, they invested certain surplus funds which came into their hands on bonds of the State, aggregating the amount stated here, \$146,500.00, which then con-

stituted a fund for a certain purpose, to-wit, to be applied to internal improvements by the State or to be used by the State, if necessary, in the purchase of stock for carrying out the policy of the State in its great work of internal improvement. It was just as much a State agency for State purposes as was the Literary Fund or as was the Sinking Fund.

We therefore conclude, if the Master please, that this sum of—

The Special Master: This item of \$146,500.00 represents the bonds thus invested in by the Board of Public Works?

Mr. Hogg: By the Board of Public Works.

The Special Master: And the bonds are included by the plaintiff in its statement of the aggregate debt?

Mr. Hogg: Yes, sir.

The Special Master: Your contention is that the bonds should be deducted?

Mr. Hogg: Yes, sir; that is right.

Now, speaking outside of the record, if we had nothing to go upon other than the legislation of the State creating these agencies, it seems to me we could, with safety, rest our objections to this, constituting any part of the public debt upon this legislation alone; but we have not confined ourselves to that. We have gone into the abstract doctrine as to what constitutes a debt.

The Special Master: The real question is whether the purchase by the Board of Public Works of a bond of the State is the extinguishment of that bond. Is not that what it comes to?

Mr. Hogg: That is what it comes to, yes. It is her's. It is nobody else's. It is not the public's at all. It cannot be considered as a debt within the meaning of the term "debt." She could cancel it at any time. She could direct them to cancel it or make any investment of it she pleased. She could do anything with it.

The Special Master: Your contention is that if there was any indebtedness, it was practically the indebtedness of the State to itself?

Mr. Hogg: Yes, sir. To become a debt there must have been a sale of these bonds to some person other than the State of Virginia or any of her fiscal agents. That is, they would have to be held by some person in a position to assert the demand called for by them as a debt owing by the State of Virginia.

Inasmuch as the date of the commencement of this debt has been agreed to by both parties as March 19, 1823, the aggregate of this

indebtedness, as shown by Defendant's Exhibit A, must necessarily be correct; and that is made up of \$36,534,056.09, less the aggregate of the three sums held by the Literary and Sinking Funds and the Board of Public Works.

The Literary and Sinking Funds were created as State agencies of the Commonwealth of Virginia for specific purposes, as shown by her own acts of legislation; and the same is true as to the Board of Public Works.

The Special Master: Did the Board of Public Works have any authority to issue bonds for the State?

Mr. Hogg: No, sir.

The Special Master: Suppose the Board of Public Works, after having invested some of its funds in the bonds of the State of Virginia, had seen fit to sell those bonds. What would have been the effect of that transaction?

Mr. Hogg: They could only dispose of the funds in their hands as directed by the State of Virginia.

The Special Master: Without going into that detail, suppose the Board of Public Works purchased or invested its money in \$25,000 worth of the bonds of the State of Virginia. Now, the Board of Public Works has no authority to issue bonds.

Mr. Hogg: None at all.

The Special Master: No authority to increase the indebtedness of the State of Virginia?

Mr. Hogg: Except as directed by the Act.

The Special Master: But assume they had made this purchase of the bonds of the State of Virginia, could they have sold those bonds in the market, so as to transfer the legal title thereto?

Mr. Hogg: It seems they were to dispose of the certificates in their hands as directed by the Legislature of Virginia, in conjunction with the Second Auditor.

The Special Master: Are you sufficiently familiar with the legislation to answer that question? Suppose the Board of Public works decided to dispose of the \$25,000 of bonds in which they had invested their funds. Of course if the purchase of those bonds extinguished the bonds, there was nothing to be disposed of. If on the other hand, they had power to dispose of those bonds so that they could transfer the legal title to a bonafide holder for value, that would tend to indicate that the bonds were still in existence. Testing your proposition by that suggestion, what would you say

about that? I want to get at the legal attributes of the transaction.

Mr. Anderson: If your honor please, I want to call Mr. Hogg's attention to some facts that I think have escaped him.

The Special Master: Of course I do not mean to indicate that that is the determining fact, but I want to get your view.

Mr. Anderson: What I refer to will not affect the position Mr. Hogg has taken, but I feel sure he wants to be accurate.

Mr. Hogg: I do.

Mr. Anderson: The board of Public Works did not at this time invest in State bonds. There had been, in the history of the internal improvement of the State, an internal improvement bond which was held by the Board of Public Works, but the fact is that in 1860 and in 1861 the Board of Public Works was the agency of the State for borrowing money and for making contracts; in the first place, for building railroads or carrying out the internal improvement policy of the State, and borrowing money and negotiating the sale of bonds, and they were given the right to use the credit of the State for the purpose of raising this money.

Mr. Hogg: That is, subject to the approval of the Legislature.

Mr. Anderson: Subject to the approval of the Legislature; and the particular bonds they held at the time, January 1, 1861, were in part, if not entirely, issued under the Act of February 29, 1860, found in the Appendix at page 34, for building the Covington and Ohio Railroad. It is a very short act.

The Special Master. Issued under the authority of the Internal Improvement Fund?

Mr. Anderson: No; issued under a special act following the language of a number of other acts on the same subject from the time this Board of Public Works was created under the Constitution. This is the Act. It is a very short one, but it has a direct bearing upon this question:

“Be it enacted by the General Assembly, that the Board of Public Works be and are hereby authorized and directed to borrow from time to time upon the terms now prescribed by law for making loans, or that may hereafter be prescribed, the sum of two and one-half millions of dollars, to be appropriated to the construction and equipment of the Covington & Ohio Railroad: Provided, that not more than one million thereof be expended in any one year.”

They were not a board for investing money, but for negotiating the sale of bonds. Waters and Pinney were actually employed by the Board of Public Works to negotiate these loans, as the agent of the State.

The Special Master: Do I understand you that this \$146,500.00 was a loan of the State, negotiated by this board under this Act?

Mr. Anderson: No; bonds that they had not negotiated, but bonds that were held for the purpose of meeting contracts which the Board of Public Works had made with the contractors, who were called the Covington & Ohio Railroad; and a larger sum than that, I think was paid after the 1st of January, 1861, on obligation contracted by the State before that. We have not gone into that matter here.

The Special Master: But a great deal depends, perhaps, on the manner in which this item of \$146,500.00 was contracted. I get an entirely different impression from your statement.

Mr. Hogg: I am very much obliged to the Attorney General for his information, and I think he is right that the bonds were acquired by the old Board of Public Works and turned over to the new Board.

The Special Master: I did not get your last statement, Professor.

Mr. Hogg: I say possibly the information given by the Attorney General is correct, that these bonds which were held on the 1st of January, 1861, by the new Board of Public Works, had been turned over to that board by the old board that I spoke of a moment ago, which was composed of certain executive officers of the State, but—

The Special Master: I understood the suggestion of Attorney General Anderson to be that these bonds were held for the purpose of taking care of contracts or carrying out contracts that had been made with the Covington & Ohio Railroad.

Mr. Hogg: That is not Section 11 of this Act.

The Special Master: If so held and never issued, then there would not be any liability.

Mr. Hogg: There is nothing here showing that, that I can see.

The Special Master: We want to get at that fact before we get through, and find out what the situation is.

Mr. Hogg: Here is Section 11:

“Said board shall be vested with such powers for preserving, improving and disbursing the funds for internal improvement, created by the Act passed the 5th day of February, 1816, as the General Assembly may from time to time prescribe.”

Showing as to the funds going into their hands that they have the power of preserving, improving and disbursing the funds in accordance with the Act of the 5th of February, 1816, as the General Assembly may from time to time prescribe.

“The unappropriated dividend, (that is, the unappropriated dividends by the Legislature of Virginia,) accruing upon stock belonging to the State fund, shall be invested by the board in some productive way until specially applied by law.

Mr. Anderson: You will find Mr. Hogg that this was held under the Act I refer to.

Mr. Hogg: That is what I thought.

Mr. Anderson: That other fund had already been exhausted long before that.

Mr. Hogg: If it was held as a fund, it was held under this Act that is found in the Code of 1860, which was passed in 1853.

Mr. Conrad: That is where you have been misled, throughout.

Mr. Hogg: No; I have not been misled. This law passed in 1853 is embodied in and made a part of Chapter 66.

The Special Master: Did that authorize the Board of Public Works to issue bonds?

Mr. Hogg: That authorized the Board of Public Works, or gave them power, to preserve, improve and disburse the funds for public improvement created by the Act passed on the 5th of February, 1816—that was an act creating internal improvements—as the General Assembly may from time to time prescribe, showing that they are acting all the time in subordination to the Act of the General Assembly of the Commonwealth of Virginia.

The Special Master: They have no power under that to add anything to the indebtedness of Virginia?

Mr. Hogg: None at all.

“The unappropriated dividends accruing upon stock belonging to the said fund shall be invested by the board in some productive way until specially applied by law.”

Now, if they found they had a fund which was unproductive, they had a perfect right to invest it; but it had to be applied in the manner prescribed by law from time to time.

The Special Master: Where did they get this \$146,500? What is the origin of that?

Mr. Hogg: That was in the hands of the Board of Public Works as a part of the funds that they were to preserve.

The Special Master: Yes; but it was invested, as I understand you, in the bonds of the State of Virginia.

Mr. Hogg: It was invested in the bonds of the State of Virginia, which they had a right to do, and was the property of Virginia, because she had the right to direct its application.

Now, if it were a debt belonging to you or to me, Virginia had no power to direct the application of my funds or the bonds that were held by a third party in the sense of creating a debt. Therefore this \$146,500 with the interest, is just as much a part of the assets of the State and just as much a liquidation of that indebtedness as if she had paid it off in the first instance.

The Special Master: Your proposition comes down to this, that when the Board of Public Works invested \$10,000, we will say for illustration, in the bonds of the State of Virginia, that cancels the debt to that extent?

Mr. Hogg: That cancels the debt to that extent, so far as it was a debt.

The Special Master: That is all there was of it? That ended it?

Mr. Hogg: That was all there was of it. That ended it, so far as Virginia's liability went.

The Special Master: That cancels that bond?

Mr. Hogg: Yes, sir.

The Special Master: And that did not leave that bond in a position where the Board of Public Works could change that investment?

Mr. Hogg: Certainly not.

The Special Master: By selling that bond?

Mr. Hogg: Of course not, because they disposed of it as the Legislature directed, from time to time.

The Special Master: You get my legal proposition; do you?

Mr. Hogg: Yes; and that is the law. That is Section 11.

The Special Master: You say if the Board of Public Works

invested in the bonds of Maryland, and if they wanted to change the investment, they could have sold the bonds of Maryland?

Mr. Hogg: Why, certainly.

The Special Master: But when they invested in the bonds of the State of Virginia, your contention is that it cancels the bonds of the State of Virginia, and, *pro tanto*, the debt of the State of Virginia ceased to exist?

Mr. Hogg: Yes, sir.

The Special Master: Do I get your contention correctly?

Mr. Hogg: Yes, sir; you do. We say, then, that the State cannot be said to be in debt when the money or bonds with reference to which the indebtedness is alleged to exist really belonged to the State itself.

Now I quote from the case of *Rowe vs. Marchand*, 86 Va., page 187, 9 S. E. 995, opinion of the Court:

“A debt is an obligation due from one person to another, payment of which the latter has a legal right to enforce.”

A man cannot be said to be in debt to himself; and the same principle governs with reference to a State. The very converse of this proposition is asserted by Virginia when she treats the bonds in the custody of the Commissioners of the Literary and Sinking Funds and Board of Public Works as a part of her public debt existing on January 1, 1861.

The Special Master: What were the facts in the case you have just cited?

Mr. Hogg: The suit was brought against the personal representatives of a decedent to collect certain debts claimed against the estate and to have a settlement of the estate. The answer denied the existence of any debt, admitting that the debts claimed once existed, but only as advancements. In the determination of the questions arising it became necessary to determine whether certain sums claimed were debts or not.

The Special Master: That was a controversy between private parties?

Mr. Hogg: Yes, private parties.

In the case of *Harris v. Larsen*, 24 Utah 139, 1414, 66 Pac. 782, the question arose as to what really constituted a debt.

The question in that case was whether a certain demand con-

stituted a debt within the meaning of certain statutes of the State of Utah relating to the liability of a homestead, which authorized such homestead to be sold on execution in satisfaction of a judgment obtained on debts created for the purchase price thereof.

In this case the court, in the course of its opinion, said:

“A ‘debt,’ as defined by Webster, is ‘that which is due from one person to another, whether money, goods or services; that which one person is bound to pay to another, or to perform for his benefit; that of which payment is liable to be exacted; due, obligation, liability.’ Anderson’s Law Dictionary defines ‘debt’ as follows: ‘In its most general sense, that which is due from one person to another, whether money, goods or services; that which one is bound to pay or to perform for another.’ *Newell v. People*, 7. N. Y. 125; *Kimpton v. Bronson*, 45 Barb. 625. Bouvier’s Law Dictionary defines ‘debt’ to mean all that is due a man under any form of obligation or promise. *City of Erie’s Appeal*, 91 Pa. 402.”

In *Antony vs. Savage*, 3 Utah 277, 280, 3 Pac. 546, the court held that “A debt is a sum of money due from one person or party to another.”

Upon an examination of the cases—I have collected a number of them here—the courts universally agree in holding that a debt is an obligation founded upon contract due from one person to another.

An examination of all the authorities bearing on the subject shows that a debt contemplates a liability existing independently of the debtor, over which he cannot exercise any control, based upon contract which he has actually entered into, either express or implied, and which the third party holding the debt has the legal right to enforce.

The Special Master: Have you found any authorities, Professor, discussing the relation of a sinking fund invested in a debt like this in controversy here?

Mr. Hogg: I have not examined with that end in view.

Mr. Mollohan: That is discussed in the case of *Dakota vs. North Carolina*.

The Special Master: You have not discussed those cases?

Mr. Hogg: No; I have not discussed them.

The Special Master: They will be cited, I suppose?

Mr. Hogg: I suppose so.

The Special Master: That is really the concrete question involved here—the relation of these various funds, all of which so far as I can see, are substantially the same in their legal aspect. The question is, what relation they sustain to the indebtedness of Virginia.

Mr. Hogg: Upon principle, therefore, as well as authority, the possession of the certificates by the Commissioners of the Sinking and Literary Funds and the Board of Public Works contains no element constituting an indebtedness against the State of West Virginia as to the certificates so held, and therefore cannot be treated as a part of the public debt of Virginia. There could be no contract made by the State of Virginia with her own Commissioners and her own Board of Public Works, created by her own acts of legislation, as fiscal agents for her own purposes, so as to create a debt. Her Commissioners are mere passive instruments in her own hands to effect her own independent purposes, and it was their statutory duty to execute the mandates of their principal, the State of Virginia. They had no power to negotiate for these bonds except under the Legislature giving them the power to invest in these bonds in the manner prescribed by law; and this, of course, was done by the consent of Virginia, as evidenced by her own act, and that for her own purposes.

Therefore, we conclude that the debt, including the interest, of \$977,209,89, accrued and unpaid from July 1, 1860 to December 31, 1860, or January 1, 1861, amounted to \$33,897,073.82.

The Special Master: And that result you reach by deducting the bonds of the State held by these various funds?

Mr. Hogg: Yes, sir; and the Sinking Fund.

I have now reached the second clause of the decree, which requires the Master to ascertain and report “the extent and assessed valuation of the territory of Virginia and of West Virginia, June 20, 1863, and the population thereof, with and without slaves, separately.”

This part of the requirement of the decree appears in the printed record at page 346, and is also contained in Plaintiff’s and Defendant’s Joint Exhibit B-1. The population here given is in accordance with the terms of the decree, showing the same with and without slaves.

There can be no controversy as to this clause of the decree, because the area of the territory of the two States has been officially determined and it is to these official sources that reference was made for the investigation by the experts of the respective parties to this controversy. The population, as ascertained by the investigation, as well as the area and valuation, as shown by the the Plaintiff's and Defendant's Joint Exhibit B-1, are agreed to, and all controversy with reference to this clause of the decree has been reconciled.

I have tabulated for my own convenience in this case, for other purposes than the argument, just what appears in Joint Exhibit B-1; and the Master will recall the fact that the Exhibit, as there appearing, is agreed to, as showing the area of the two States, respectively, and also of the population of the two States, respectively, with and without slaves.

We have now reached the third clause of the decree, which requires the Master to report "all expenditures made by the Commonwealth within the territory now constituting the State of West Virginia since any part of the debt was contracted."

The Special Master: If you prefer to do so, Professor, you may suspend now and resume in the morning.

Mr. Hogg: I would prefer to do so.

(The hearing was thereupon adjourned until Saturday, November 6, 1909, at ten o'clock A. M.)

New York, N. Y., Saturday, November 6, 1909.

The hearing was resumed before the Special Master, pursuant to adjournment of yesterday, at ten o'clock A. M.

Present: Counsel for the respective parties.

ARGUMENT OF HON. CHARLES E. HOGG.

(Continued.)

Mr. Hogg: When we adjourned last evening, I had arrived at paragraph 3 of the decree, relating to expenditures made by the Commonwealth of Virginia in the territory now constituting West Virginia.

The Special Master: As you had not begun on that, the suggestion occurred to me in relation to the question of the Sinking

Fund, the Board of Public Works and the Literary Fund. Does the record show, or have you had that fact in mind, whether or not the bonds of the State of Virginia that are held by those three funds are treated by the State of Virginia as outstanding, and that they have been paying interest continually on them up to 1861?

Mr. Hogg: I am not advised as to that.

Mr. Carlisle: I have no doubt they have paid it into the Sinking Fund.

The Special Master: I was inquiring whether as a fact the record discloses that Virginia had treated these bonds that were held by the Sinking Fund, the Board of Public Works and the Literary Fund as outstanding valid and subsisting obligations, and had been paying interest on those bonds. That is a fact I have not heard commented on, and I wanted to inquire what the fact was.

Mr. Spooner: Those bonds were sealed down, were funded on a two-thirds basis, just as those were that were held by individuals, and certificates issued for the other one-third by Virginia.

Mr. Conrad: The statute and Constitution require that those bonds shall be held by those boards as investments. That is the language.

The Special Master: But what I was inquiring about was as to the actual facts, whether the State had been paying on the bonds thus held by these three funds or by these government instrumentalities.

Mr. Hogg: I do not think the record shows that fact.

The Special Master: I presume that the accountants can ascertain that fact, because in computing the interest paid and verifying the amount, they must have ascertained whether or not the interest was paid upon that part of the debt and making a part of the aggregate of interest.

Mr. Hogg: You are asking simply for the bare fact?

The Special Master: I was asking simply for the bare fact.

Mr. Hogg: I do not think the bare fact of whether or not the Commonwealth of Virginia actually paid interest on bonds of those three funds, the Sinking Fund, the Board of Public Works and the Literary Fund, is shown in the record. It has escaped my attention, if it has been shown.

Mr. Harrison: Not further, I suppose, than what the public acts show.

Mr. Hogg: I suppose there is nothing of that kind in the record.

Mr. Harrison: I do not think so.

Mr. Hogg: I have discussed it in the light of the acts, and whether the interest was paid or not is immaterial, from my standpoint.

The Special Master: Strange as it may seem, I think these things over myself sometimes, and in thinking it over this occurred to me—

Mr. Conrad: We will put you in possession of the actual facts.

The Special Master: It must be easy for the accountants to ascertain, because in figuring the interest there must be some experience on which those figures are predicated. I do not say that it is a determining fact at all, but it is a somewhat interesting and complicated proposition, and it might be well in considering it for us to have all the facts before us.

Mr. Mollohan: It would be pertinent in ascertaining the question of the unpaid interest.

Mr. Hogg: Shall I proceed with my argument?

The Special Master: Yes.

Mr. Hogg: On page 371 of the printed record appears Joint Exhibit C-1, giving the summary of the amounts of money expended in the territory now constituting West Virginia, containing statements with reference to the different items composing the groups of expenditures therein appearing, and so far as amounts and aggregates are concerned, these are agreed to as correct.

The difference between the parties under this paragraph of the decree is as to what constitutes expenditures within the meaning of the decree of reference. It will be observed that there are two classes of expenditures, divided into two groups. These two groups aggregate \$5,639,302.66, of which sum \$1,251,288.92 is conceded to be correct, while the balance, \$4,388,013.74, it is contended by West Virginia, does not constitute expenditure within the meaning of the decree.

Plaintiff's and Defendant's Joint Exhibit C-1 shows the respective contentions of the parties, which can only be reconciled

by construing clause 3 of the decree as to the meaning of the word "expenditures." It seems to us that in the light of what it contained in the ordinance adopted by the restored government of Virginia in August, 1861—

The Special Master: There probably cannot be any doubt of that, because that language is taken almost bodily.

Mr. Hogg: Yes, it is practically taken, you may say, bodily from the ordinance. I say it seems to us that in the light of what is contained in the ordinance adopted by the restored government of Virginia in August, 1861, and that which appears in the act of the same government, passed February 3, 1863, there ought not to be much difficulty in determining what the court had in mind by the use of the word "expenditures," and what is intended by that clause of the decree.

The ordinance prescribes the method by which West Virginia's portion of the public indebtedness of the old State shall be ascertained.

Section 9 of the ordinance declares that the new State shall take upon itself a just proportion of the public debt, "to be ascertained by charging to it all State expenditures within the limits thereof," and so forth. What did the State of Virginia mean by the use of this clause in section 9, inserted in her own ordinance? The only way to arrive at a just conclusion as to what the framers of that ordinance intended is to look at what took place immediately after the ordinance was framed on the part of the two governments—that is, the proposed new government or new State, and Virginia. This is before we reach the Act of February 3, 1863. It will be remembered, it will be borne in mind, that the ordinance not only declares that the new State will take upon itself a just proportion of the indebtedness of the old State prior to January 1, 1861, but it also provides the method by which that just proportion shall be ascertained.

The Special Master: The fundamental proposition in the proceeding is the ascertainment of the just proportion?

Mr. Hogg: Yes.

The Special Master: That is your fundamental proposition?

Mr. Hogg: That is a fundamental proposition.

The Special Master: And all the various features of the ordinance are in the last analysis to be relegated back to that fundamental proposition?

Mr. Hogg: That fundamental proposition.

The Special Master: And construed with reference thereto?

Mr. Hogg: After that ordinance was adopted in August, 1861, in accordance with the directions of the ordinance, or permission given by the ordinance, a convention was held in the proposed new State for the purpose of framing a Constitution. That Constitution was framed in 1862. It practically followed the ordinance, except it used the word "equitable" in lieu of the word "just," and it does not concern us just now whether these words be synonyms or not. But I think they may be treated as synonyms. After that when the Constitution was framed, based upon this ordinance, that West Virginia should assume a just proportion of the public indebtedness of the Commonwealth prior to January 1, 1861, the Commonwealth of Virginia passed an Act giving her consent to the formation of the New State based upon the constitutional provisions which in effect followed the provisions of the ordinance as to the manner of settling this public debt, or, rather, as to the proportion to be borne.

Now, all that could be done by the new State had been done up to the time Virginia passed that act in 1862, giving her consent to the formation of the State. If West Virginia did become a new State, it depended upon the act of Congress which must subsequently be passed, and which was passed. Therefore the question as to the formation of the new State had passed from the two territories and had been referred to the Congress of the United States.

Up to that time, the beginning of 1863, not only had they agreed that a just proportion of the public debt should be assumed, but they had agreed in their ordinance as to the method of its ascertainment.

Mr. Conrad: Not in the Constitution.

Mr. Hogg: Well, it is evidently a part of the procedure, resulting in the admission of the new territory into the Union, evidently predicated upon the ordinance.

The Special Master: For the purposes of your argument, it resulted substantially in contractual relations.

Mr. Hogg: Yes, because it is practically a compact which was subsequently recognized by the Congress of the United States.

The Special Master: I understand that your argument now is predicated upon the Wheeling ordinance?

Mr. Hogg: In conjunction with the subsequent acts of the two States. Now then, at that time Virginia still held all of her stocks. She had never parted with them, whatever of right, interest or title she had, they were hers. If so, they could not have been regarded by the framers, at the time of the adoption of the ordinance, as State expenditures.

The Special Master: Your proposition is that up to that time Virginia, instead of treating them as expenditures had been treating them as an investment?

Mr. Hogg: As an investment.

Now then, when it came to the fact of the ownership of these stocks, Virginia still holding them, she passed an act on February 3, 1863, transferring not only these stocks, but all other property rights and interest which she had of every kind and character mentioned in this act.

The Special Master: What is the language?

Mr. McClintic: That will be found at page 128 of the small book.

Mr. Hogg (reading):

“Be it enacted by the General Assembly of Virginia, that all property, real, personal and mixed, owned by or appertaining to this State, and being within the boundaries of the proposed State of West Virginia, when the same becomes one of the United States, shall thereupon pass to and become the property of the State of West Virginia, and without any other assignment, conveyance, transfer or delivery than is herein contained; and shall include among other things not herein specified, all lands, buildings, roads and other internal improvements, or parts thereof, situated within the said boundaries, and now vested in this State, or in the President and Directors of the Board of the Literary Fund or the Board of Public Works thereof, or in any person or persons, for the use of this State to the extent of the interest and estate of the State therein; and shall also include the interest of this State, or of the said President and Directors or of the Board of Public Works, in any parent bank or branch doing business within the said boundaries; and all stocks of any other company or corporation, the principal office or place of business whereof is located within the said boundaries standing in the

name of this State or of said President and Directors, or of the said Board of Public Works, or of any person or persons, for the use of this State.”

In this same act it is provided that she shall account for these transfers in the settlement hereafter to be made with reference to the public debt.

When Virginia adopted the ordinance and the proposed new State held her convention and adopted her Constitution, and Virginia gave her consent to the formation of the State based upon what she had done before and including the Constitution, Virginia had a demand against West Virginia for her just proportion of the public debt, and in that there was nothing said about bonds or stocks, or anything of that sort. She still owned them. When she passed her Act in February, 1863, transferring these various items of property to Virginia she created another demand upon the State.

Mr. Mollohan: You mean West Virginia.

Mr. Hogg: I mean West Virginia, based upon these matters embraced within the Act of 1863, which was separate and distinct from the demand which she had upon her created by the ordinance, the Constitution and the Act giving consent to the creation of the new State.

The Special Master: That is, it was a new provision?

Mr. Hogg: A new liability; after she had already given her consent to the formation of the new State, she could not have had in mind—

The Special Master: When you speak of liability, what you mean is that the transfer of this property involved upon West Virginia the liability of accounting for the value thereof?

Mr. Hogg: Exactly.

The Special Master: In that sense you use the term “liability?”

Mr. Hogg: Yes, creating a new demand Virginia had upon West Virginia.

The Special Master: Creating an obligation on the part of West Virginia to account for whatever they received under this new and additional legislation?

Mr. Hogg: Yes. Therefore it created a distinct liability, if any exists.

As I stated before, it will be seen that Virginia did not in her ordinance treat her purchases of stocks as expenditures within the meaning of her ordinance, or else she would not have included them in her Act of February 3, 1863. Evidently the expenditures for stocks were not contemplated when the ordinance was adopted.

The Special Master: If I get the full force of your proposition, it comes to this: That at the time the Acts of Virginia and West Virginia, upon which the incorporation of West Virginia was predicated, were passed, the possession on the part of Virginia of certain property of certain kinds was not considered as an element involved in the apportionment of the debt?

Mr. Hogg: That is right.

The Special Master: That thereafter, as possibly new legislation, as an additional suggestion, having no necessary legal or equitable connection with anything that preceded it, Virginia did transfer to West Virginia certain items of property which as a matter of convenience they may have thought it was proper for West Virginia to own?

Mr. Hogg: Yes.

The Special Master: And that was an element super-added to the other transactions?

Mr. Hogg: Yes, as a new thing.

The Special Master: It involved upon West Virginia, under the terms of the Act, the responsibility for accounting for whatever was thus transferred in the settlement previously arranged for. Do I get your proposition?

Mr. Hogg: Yes; that was the intention.

The Special Master: And then your further suggestion is that inasmuch as Virginia, by an act of its Legislature, treated these items that were in controversy as property that it then owned and was thus transferring, that that tends to demonstrate that they were assets and not expenditures?

Mr. Hogg: Not expenditures, yes.

The Special Master: That is, that Virginia was making investments when it invested in these stocks instead of aiding in the preparation of public works?

Mr. Hogg: Yes, and owned them.

The Special Master: Yes, and owned them.

Mr. Hogg: A great deal may be said in reference to that matter.

The Special Master: While on that, what do you say about this suggestion which, in effect, as I understand it, is the contention of Virginia? That is, that from their contention, they contend that it is hardly reasonable to assume that Virginia was hiring money for the purpose of re-investing it in corporations of this character; that the real purpose of Virginia in investing in stocks of these companies was simply to promote the execution of the public works for the convenience and benefit of the citizens of the State, and that they did not contemplate making an investment, but were really expending money through the machinery of corporations thus organized. That, I suppose, is in substance the contention that they make. That is, that Virginia had embarked upon a very extensive program of public improvement?

Mr. Hogg: Yes.

The Special Master: And instead of Virginia individually proceeding to build these improvements itself, they contend that Virginia availed itself of the machinery of corporations for the purpose of getting what aid they could from private capital; but so far as it was not able to get the necessary funds by private capital, there was the other means open to them, the medium of a stock ownership—two-fifths in some instances and three-fifths in others—but that the real purpose of Virginia was not to invest money but to expend money for the purpose of creating public improvements. If I get their contention, I think that is it. Now, what do you say about that general proposition?

Mr. Hogg: I can only give my general opinion based upon her acts of legislation and what those acts would indicate. They started out originally on a system of public improvement, and in 1817 they declared that the stock held by Virginia should pay no dividends until the earnings of the company netted the private stockholders six per cent. per annum on their investment. That would indicate that her sole purpose was simply to invest and encourage private individuals to take the three-fifths which was then taken.

The Special Master: Practically relieving them of the burden of the whole expenditure?

Mr. Hogg: The burden of the full expenditure, and to encourage them. That continued only eleven years, when Virginia

repealed that Act and declared that all subscriptions thereafter taken by her in the works of internal improvement should place her stock upon the same basis as that held by private stockholders. So that she shared in the dividends just as the rest of them did. And, in addition to that, when she found that the investments did not pay returns, she directed the Board of Public Works to transfer it to the counties which would accept it, and cautioned them also in the Act not to turn it over where, in their judgment, it was a proper investment to be retained. In other words, if the investment would make returns upon the stock, not to turn it over. They were to exercise their judgment in that matter, if your Honor please.

The Special Master: That legislation was evidently an effort to get rid of the liability?

Mr. Hogg. That was evidently an effort to get rid of what they considered a bad investment, because, if they intended it simply for encouragement, they would have allowed it to stand; so the work went on. Therefore it is, in my judgment, an investment, and was treated as an investment.

The Special Master: What would you say about the original period, that is, investments made by virtue of the legislation during the first period?

Mr. Hogg: The very fact that they receded from it in 1828 would indicate to my mind that she had changed her policy.

The Special Master: But what about the investment made prior to that?

Mr. Hogg: Between 1823 and 1828?

The Special Master: Yes; how would they be fairly characterized—having in mind all the time of course that the fundamental purpose of the Wheeling ordinance was the just distribution of the debt?

Mr. Hogg: I think that would be treated as an investment solely, because she made herself a stockholder and gave herself a voice in the management of those investments. And another thing, she required that whenever three-fifths were subscribed, that one-fifth had to be paid in cash or secured in real property of twice the value of the amount of the subscription. So at the time she was protecting herself in her own investments, while she was, in an indirect way, encouraging others to invest.

Mr. Carlisle: May I call your attention to one fact?

Mr. Hogg: Certainly.

Mr. Carlisle: That there is a law—what its date is I do not know—providing that if any private stockholder desired to sell his stock he must first offer it to the State?

Mr. Anderson: That was the James River Company.

Mr. Spooner: Almost every private company.

Mr. Carlisle: I think so.

Mr. Hogg: While I would like to discuss that, I am going to defer largely to Senator Spooner on that, because I want to discuss another branch.

The Special Master: I understand; but I would like to get the views of each gentleman as we go along on each phase that presents itself. The questions are by no means free from difficulty.

PARAGRAPHS 4 AND 5 OF THE DECREE

Mr. Hogg: The fourth clause of the decree imposes the duty of ascertaining—

“Such portion of the ordinary expenses of the Government of Virginia since any of said debt was contracted, and was properly assignable to the counties which were created into the State of West Virginia, on the basis of the average total population of Virginia, with and without slaves as shown by the census of the United States.

“And also on the basis of the fair estimated valuation of the property, real and personal, by counties of the State of Virginia.”

It will be perceived that the court requires the Master to ascertain such proportion of the ordinary expenses of the government of Virginia as was properly assignable to West Virginia upon two basis: One, the population with and without slaves, and the other the fair estimated valuation of the property, real and personal.

The Special Master: Your fair estimated valuation comes under paragraph 5?

Mr. Hogg: Yes, sir; but it also adds, “and also on the basis of the fair estimated valuation of the property, real and personal, by counties of the State of Virginia.”

I want to consider both of them together. I first want to ad-

dress myself to the question arising under this part of the decree referring to the ordinary expenses of the Government. These words appear in the ordinance, and their appearance in the decree is evidently in view of their use by Virginia in framing her own ordinance, wherein she requires that West Virginia shall be charged with "a just proportion of the ordinary expenses of the State government, since any part of said debt was contracted."

The principle is elementary, requiring effect to be given to every word used in a document or writing of any kind, if effect can be given to it consistently with the instrument taken as a whole. We are therefore to presume that the framers of this ordinance used the word "ordinary" in a qualifying sense in applying the word to the expenses of the State government. That is, that they intended only to charge West Virginia with what they, the framers of this ordinance, regarded as ordinary expenses.

So there must be two kinds of expenses which Virginia herself had in view in framing this ordinance when she used the word "ordinary." She evidently contemplated that there were some expenses that were not ordinary. Now then, it did not mean every kind of expense of the Government of Virginia, or she would have not used the word "ordinary." There were some of her expenses of government which she designed to exclude. A State Government, as we understand it, under the American system is composed of three branches, the legislative, executive and judicial. The policy of these State governments—and it was at that time the policy of the State government of Virginia—is to keep these branches separate and independent of each other. She used the word "ordinary" expenses, and may we not justly infer that all the expenses which she designed to include were those expenses included in carrying on the ordinary operations of each of these branches of the government; that is, all expenditures on account of the administration of justice from her highest to her lowest courts, those included in carrying on executive operations of the government, and those necessarily incurred by her law-making body?

The Special Master: What is your previous classification—those incurred by the law-making power?

Mr. Hogg: Those incurred for the purpose of carrying on the operations of these three branches of government; that is to say, the executive, in the discharge of its ordinary duties; the law-

making power, in the discharge of its ordinary duties; and the legislative branch of the government, in the discharge of its ordinary duties. In other words, things that were out of the line of the ordinary work of these branches of government were not to be included. Did she mean to include in this term matters of extraordinary occurrence not at all needful or helpful to the necessary operation of the various departments of her government? Did she not use this term "ordinary" in contradistinction to extraordinary expenses? No plainer word could well be used by the framers of the ordinance, and of course the court in the draft of its decree, than that of "ordinary". While this word is synonymous with "common" yet it has a different shade of meaning from the word "common". A thing is ordinary when it is apt to come around in the ordinary or regular succession of events. There were ordinary expenses of the State government of Virginia before the creation of any public debt by her. She had these ordinary expenses at the time of her formation and under her first Constitution. It was something incident to the expenses of her government from the time of its formation, and her ordinary expenses of State government will continue long after she has discharged all her indebtedness.

It is difficult to lay down an abstract definition of what constitutes "ordinary expenses" so as to apply it to the expenses of any government, because what may be ordinary expenses in one State government, might not be ordinary expenses in another State government. I find in examining the authorities that some of the cases hold that the nature of the expenditure may determine the character of the expense, whether it be ordinary or not ordinary; and other cases the amount may characterize it as not an ordinary expense; and in others it depends upon the constitutional provision of the particular State government or some act of legislation.

It must be conceded that the public debt itself is not an ordinary expense. Such a debt is usually created for a specific purpose, and usually originates with the State or municipality for the promotion of internal improvement, the costs of which cannot be met by the ordinary revenues arising from taxation. In some jurisdictions the distinction between ordinary and extraordinary expenses of government is made by fiat of the legislature, and is thus made a matter purely arbitrary with the legislative body.

It seems to us that, as used in the ordinance of 1861, it only meant those expenses annually accruing in the administration of the three co-ordinate branches of the government; that is, those expenses met by annual taxation and incurred in carrying out the settled policy of the State in her system of State government. It is clear that ordinary expenses did not include the public debt, for this was the very matter that the framers of the ordinance of 1861 were considering when they embodied in clause 9 thereof the mode of its adjustment between the Commonwealth and the proposed new State. It could not have been a part of the ordinary expenses of the government, from the very nature of the subject to which clause 9 of the ordinance relates.

If this public debt, then, cannot be treated as part of the ordinary expenses of the State government, we are led to ask what constitutes the public debt that was to be settled as of January 1, 1861? It was evidently the principal obligation incurred by the State of Virginia and the accrued unpaid interest thereon of that date. This debt and its unpaid interest was then an independent, extraordinary obligation incurred by the State.

This obligation continued to exist.

The Special Master: That is specifically provided for in the ordinance?

Mr. Hogg: It is specially provided for in the ordinance, yes. As I say, this obligation continued to exist from the date of its creation, increasing in volume with the lapse of time, and was necessarily made up of two things—principal and interest. Upon the creation of the debt, at the end of the first year, there was an obligation subsisting composed of the principal and the accrued interest, and as fast as the interest matured that part of the debt became liquidated and the obligation reduced *pro tanto*, and this process of increasing the debt, as well as keeping the obligation in life with its accrued interest, continued from time to time until January 1, 1861, the amount in the aggregate then being \$33,897,073.82, as already shown.

These two features of the public debt, the principal and the interest, cannot be segregated, and thus classified one as extraordinary expenses and the other as ordinary expenses. This is so for several reasons: First, because if a thing is extraordinary that which is necessarily its incident must likewise be extraordinary; second, because if a thing is extraordinary any other or

additional expense to which it gives rise must be within its scope and be so treated and considered; third, if the debt itself is an extraordinary expense, the interest, which is always treated as a part of the debt, is necessarily extraordinary. Can it be possible then that the framers of the ordinance, in using the term "ordinary expenses of the State government," intended thereby to exclude the public debt itself and to include its necessary incidents, one of which is the interest annually accruing thereon? Does not the fair and reasonable construction of this ordinance lead to the inevitable conclusion that at the time that part of it relating to the method of settling the public debt was under consideration the whole public debt and all its incidents were entirely independent and apart from any of the terms used in the ordinance relating to its settlement in order to determine the just and equitable proportion to be borne by West Virginia? Was not the public debt and its incidents one subject and one matter, and the method of its settlement, embraced in the ordinance another and different matter, and is not this what was intended by the framers of the ordinance, and therefore is not this the true construction of the ordinance when they speak of Virginia taking upon herself a just proportion of the public debt of the Commonwealth?

Virginia, as a State, had the use of all these expenditures in the form of public improvements from the time of their construction down to the day of the formation of the new State. She had absolute control of these improvements. The use of them was inuring to the territory of Virginia as a whole. Did not this long-continued ownership and use of these improvements represent to her the interest she had paid? Did that not represent to her the interest she had expended as the interest of the public debt in producing these improvements?

The Special Master: Is not that true of all the expenditures?

Mr. Hogg: Yes, in one sense it is. But we are charged with the value of them.

The Special Master: But predicated upon the argument you are making now, is not that true of all of them?

Mr. Hogg: I am coming to that. Now that Virginia was about to transfer to a new State to be created by her consent, she provides that the expenditures creating them are to be charged to West Virginia, but not the interest on the debt to which these expenditures gave rise, as she herself had the use of them during

all the time that the debt had run, from its inception to the formation of the new State, and that therefore the only just charge that she could make against the new State would be of the expenditure that these improvements made within the territory represented.

Any other view of the ordinance would make the new State pay for these improvements covering all the time they belonged to and were under the control of the State of Virginia as represented by the interest.

Now, I come to a fact which I regard as very significant, and it seems to me it should be treated as an admission on the part of the plaintiff in this case that interest is a part of the debt and cannot be treated as ordinary expenses.

Virginia herself treats the interest as a part of the debt itself in Joint Exhibit A-1, at page 215 of the printed record in which she makes two separate items in the aggregate of interest accruing from July 1, 1860, to December 31, 1860, a part of the aggregate indebtedness of the Commonwealth of which she contends West Virginia must pay her proportion. These two items claimed by Virginia as constituting a part of the public debt are \$51,930.11 on a principal debt bearing interest at five per cent. and the other in the aggregate \$925,279.78 on a principal bearing interest at six per cent, which items make an aggregate of \$977,209.89, which is a large part of the indebtedness claimed to have been existing on January 1, 1861. These two items of interest claimed by Virginia as constituting its part of the public debt make up, as we have just stated, a large sum of what Virginia claims is the true public debt on January 1, 1861. She also charges other items of interest, for instance that accruing from the holdings by the Literary and Sinking Funds, and that accruing on the bonds held by the Board of Public Works, as shown in Joint Exhibit A-1 at page 215 of the record.

Here we have Virginia in the taking of this account treating the accrued and unpaid interest as a part of the public debt, and not an ordinary expense of the government, not to be segregated from the principal, but as entering into and forming a part of it. Now, as Virginia went along from year to year—

The Special Master: What do you say about this distinction: When the interest is unpaid, of course it is a subsisting liability and beyond all question an indebtedness to be paid; but the

moment it is paid of course it passes from the domain of liability and is extinguished; and is not that the scientific line of demarkation between paid and unpaid interest?

Mr. Hogg: I think not, for this reason—

The Special Master: Well, is not that the thing that determines whether it is a debt or is not a debt?

Mr. Hogg: Oh, yes.

The Special Master: Of course that does not answer the whole proposition as to whether the payment of interest is an ordinary expense or not; but is not the line of demarkation between indebtedness, and absence of indebtedness?

Mr. Hogg: Undoubtedly, the moment it is paid it ceases to be a debt. When it matured, it became a debt, not an ordinary expense, and when she paid it she discharged it *pro tanto*, and nothing else.

The Special Master: Yes; but the question of indebtedness may not be the distinguishing feature of an ordinary expense. Liabilities are incurred as a matter of ordinary expense of course, in carrying on the executive and judicial and legislative departments, and that involves the assumption of obligations, and the State incurs indebtedness in connection therewith, and then appropriates its money as a matter of ordinary expense to discharge that indebtedness.

Mr. Hogg: In this case, when Virginia allowed the interest to accumulate she was allowing her debt to accumulate, and when she did not allow her interest to accumulate, then she was paying off her debt. When Virginia undertakes to show her gross indebtedness as of January 1, 1861, she includes the interest thereon as a part of this debt; but when she undertakes to make out the "ordinary expenses" of her State government she insists that the interest is not a part of the debt, but on the contrary constitutes a part of the ordinary expenses of her government. Can she maintain this incongruity? If the interest is part of the debt for one purpose in stating the account is it not a part of the debt for all purposes of the account? It seems to us clearly so. The interest charged from July 1, 1860, to December 31, 1860, so far as it has accrued upon that part of the debt held by individuals, corporations and others (not including the Literary and Sinking Funds and Board of Public Works) was a part of her original debt as much so as the principal itself, and as she paid the accruing inter-

est from time to time she was thus *pro tanto* discharging the debt.

The Special Master: Is the fact of liquidating a debt, a debt *per se*, independent of whether it is an annually recurring debt, the crucial test?

Mr. Hogg: Not by any means, except she may arrange to pay off annually part of the debt only and the accrued interest and in some municipalities it is done, where the amount of the property and the rate of taxation will justify it. So she might arrange to pay off so much of the principal as well as the interest.

The Special Master: It may be difficult to get a scientific line of demarkation as to what constitutes "ordinary" and what constitutes "extraordinary" expenses.

Mr. Hogg: I think it depends on all the circumstances of the particular case, like the question of fraud.

I say the conclusion is irresistible that the interest is a part of the debt, and should not be treated now as part of the ordinary expenses of the State government.

This, it seems to us, is not only so upon reason, but upon authority. I would like to cite some cases.

(Reading):

"While in a number of cases interest is stated generally to be an incident of the debt, apparently without regard to the distinction between interest as damages and contractual interest, the proper distinction is that where interest is payable by virtue of contract, it is an integral part of the debt, as much so as the principal debt itself."

(22 Cyc., 1570, and cases cited.)

"Where there has been an express contract to pay interest the sum due therefor is as much an integral part of the debt as is the amount for the use of which the interest is contracted."

(16 Am. & Eng. L. 1033, and cases cited.)

"As interest due by contract and accrued before the maturity of the principal becomes an integral part of the debt, or itself an independent liability, payment of the principal will not *ipso facto* operate to defeat a subsequent de-

mand for interest. There would be no more reason for holding that payment of the original principal extinguished the claim for interest than that part payment of such principle destroyed the right to the remainder.”

(16 Am. & Eng. Enc. L. 1033, and many cases cited there.)

In *Morley v. Lake Shore & Michigan Southern R. Co.*, 146 U. S. 162, 169, the court, in its opinion delivered by Mr. Justice Shiras, says:

“Interest upon a principal sum may be stipulated for in the contract itself either to run from the date of the contract until it matures or until payment is made; and its payment in such a case is as much a part of the obligation of contract as the principal, and equally within the protection of the Constitution.”

What I want to show is that this interest is a liability, is a matter of contract pure and simple, while ordinary expenses in no sense of the word are matters of contract. They are simply paid at the option of the government; if she wants to continue the operation, she pays the expenses, and if she wants to cease some little thing that is incident to the operation she stops the appropriation. But in no sense can she exercise such a power with reference to a contract into which she has solemnly entered that the interest which she agreed to pay is just as much a part of the contract as the principal for which she receives the money.

The Special Master: It is not competent for the State to enter into a contract for an annual expense that would be characterized by all these limitations you suggest?

Mr. Hogg: It might be, but then it surely would be a matter of contract and would not be what is considered—

The Special Master: But would it not be a contract that the State would be equally bound by as by a contract extending over a longer period of time?

Mr. Hogg: Possibly; but I am speaking now of the ordinary expenses of the Government. I am quoting now from the case of *Emmettsburg Railroad v. Donaghue*, 67. Maryland, page 383, and *Jones v. Ricketts*, 7th Maryland, 116.

The Special Master: I have in mind to call your attention to

what I know has been the action of the courts in Maine—and probably it is true elsewhere, but I am not so familiar with the practice elsewhere—the courts have uniformly sustained contracts of water companies extending over a period of time, which are very clearly ordinary expensess. After the contract is once made, the liability continues to accrue during the continuance of the contract, irrespective of the question of whether or not they appropriate annually for the liability accruing under it. Is not that parallel to your suggestion?

Mr. Hogg: In Virginia they could not exceed the revenues of the Government, could not anticipate them except by a short loan.

The Special Master: Of course they cannot do this in Maine except by virtue of statutory authority. Assuming it is competent for the State to grant this authority and for the municipal corporation to exercise it, there you have a continuing contract for which ordinary taxation is used to extinguish from time to time the indebtedness under it.

Mr. Spooner: Are you referring to a case where the municipality issued bonds?

The Special Master: No; I am testing his argument.

Mr. Spooner: And there is a contract to furnish water—

The Special Master: Extending over a period of time, as bearing upon the suggestion that a town in the State might not see fit to appropriate—

Mr. Hogg: If they distribute the revenues, if the authorities allow them to distribute the revenues. In our country we cannot anticipate, but if a contract is made and a party is willing to take his risk, then he may take it from time to time.

The Special Master: That does not affect the fundamental legal proposition?

Mr. Hogg: No. In Virginia and West Virginia they could not anticipate revenues, go on and make contracts with the expectation of paying some time in the future, but they could use the revenues for any and all ordinary purposes as they accrued. The position I take is that in this case the revenues of the Government are not matters of contract to be protected by the Constitution of the United States, whereas interest on a public debt is as much a part of the contract as the contract itself.

The Special Master: I don't think there is any doubt about that.

Mr. Hogg: As I have said, where in an action on a bill, the defendant pleaded an agreement with the plaintiff that the latter would relinquish all claim to the interest which had accrued on the principal sum due, in consideration of the payment of the principal sum in full satisfaction of payment of the principal, it was held that there was no defense by way of accord and satisfaction, as the interest was as much a part of the debt as the principal, and consequently the promise was without consideration. That is the case I have referred to of the *Emmettsburg Railroad v. Donaghue and Jones v. Ricketts*.

The Special Master: That is, the only agreement there was to discharge an existing obligation, and therefore there was no new consideration?

Mr. Hogg: Yes.

I would like to read from a case found in 11 U. S., page 176, *Redfield v. Ystalyfera Iron Company*:

(Reading):

“Interest is given on money demands as damages for delay in payment, being just compensation to the plaintiff for a default on the part of his debtor. Where it is reserved expressly in the contract, or is implied by the nature of the promise, it becomes part of the debt, and is recoverable as of right; but when it is given as damages, it is often a matter of discretion.”

In this case it will not be questioned that the interest is a part of the contract, a part of the debt, and every time she paid that interest she discharged the debt to that extent.

The Special Master: *Pro tanto*?

Mr. Hogg: Yes. And prevented the debt from accumulating.

I will read now from 139 U. S., page 694, and especially at page 701, the case of *Redfield v. Bartels*. In this case the Supreme Court quotes the case of *Redfield v. Iron Company* with approval and adopts the language used in the case saying:

“Interest is given on many demands as damages for delay in payment, being just compensation to the plaintiff for a

default on the part of his debtor. Where it is reserved expressly in the contract or is implied by the nature of the promise, it becomes part of the debt and is recoverable as of right, but when it is given as damages it is often a matter of discretion.

“In cases like the present, of recoveries for excessive duties paid under protest, it was held in *Erskin v. Van Arsdale*, 15 Wallace 75, that the jury might add interest, the plaintiff ordinarily being entitled to it, from the time of the illegal exaction.

“But where interest is recoverable not as part of the contract, but by way of damages, if the plaintiff has been guilty of laches,” etc., “interest may be properly withheld.”

I would now refer the Master to a case in 160 Massachusetts, page 279, the case of *Davis v. Harrington*. This was a contract on a guarantee for the payment of rent under a contract for one year. The question was whether there ought to be interest allowed.

(Reading) :

“We must therefore treat the case as one in which after suit brought the plaintiff accepted the payment of his debt, not including a sum to which he was entitled as interest by way of damages for delay in payment. If there had been a contract to pay interest, the interest would have been a part of the debt which would have stood differently from the present one.”

The court then cites *Sparhawk v. Wills*, 6th Gray, 163; *Andover Savings Bank v. Adams*, 1 Allen, 28. Those are Massachusetts cases.

(Reading) :

“But interest which is allowed by way of damages for neglect to pay primarily as a mere incident to the debt which falls when the debt is extinguished, it is well settled that in such a case if the debt is paid there can be no recovery afterwards for the interest which might have been collected.”

The Special Master: That is a matter of liability between the promissor and promisee

Mr. Hogg: It is a matter of liability between them, yes. Here comes the question again on that proposition, whether or not when Virginia paid the interest she was, in effect paying the debt just as much as if she were paying the principal.

I would like to read now from *Epping v. City of Columbus*, 117 Georgia, 264. I will give you the next case in a moment.

(Reading):

“The debt of an individual corporation, State, etc., when the word is taken in the sense that it ordinarily conveys to the popular mind, is the principal and accrued interest on a given date. Unearned interest is not, in such a sense, a part of the debt. The debt of a municipal corporation within the meaning of the provision of the Constitution which prohibits such a corporation from incurring a debt which exceeds seven per cent. of the assessed valuation of all the taxable property within the municipality, is to be ascertained by adding to the principal of all outstanding indebtedness the amount of all accrued interest that may be past due and payable on the day the amount of the debt is to be fixed. In ascertaining the amount of such debt, future interest which is not due on the day it becomes necessary to fix the sum of indebtedness, is not to be counted. Unearned interest is not, within the true intent and meaning of the Constitution, a part of the debt of a municipality.”

The Special Master: What was the question at issue in that special case?

Mr. Hogg: There are two cases here. I will state it in a moment. Each of these cases involves questions arising upon an action to invalidate bonds, a question as to what constituted a debt within the meaning of the Constitution—a debt beyond a certain amount.

Now, at page 271:

“It not appearing that the framers of the Constitution intended that the term ‘debt’ should be used in any other than its ordinary and proper sense, it will be thought it was their intention that it should be taken in this sense, and that when the Constitution was adopted the people understood that the

word was used in its popular sense. Taking the word in this sense, it means the amount of present liability on a given date."

I think the same would apply to the case of Virginia against West Virginia.

"The amount of one's indebtedness to-day is the principal sum which may be reasonably collected from him at a future time, plus any interest on the same which may have accrued up to to-day. Within the meaning of the Constitution, the debt of a city at the time of the adoption of that instrument was an amount represented by the principal and the past due interest at that time. In order, therefore, to determine at any time whether a city has incurred a debt exceeding 7 per cent. of the assessed value of the taxable property, it is necessary to ascertain only what is the principal amount of all the liabilities of the city, and what is the amount of interest on such principal which is past due and unpaid at the time it becomes necessary to ascertain the amount of the city's indebtedness. A city's debt on a given date is the principal amount of all of its obligations, plus the past due and unpaid interest on that date. It may be technically accurate to say that the word 'debt' means more than this and includes not only past interest, but other interest as well; but in the paragraph of the Constitution now under consideration we find the word 'debt' used solely in the sense of a present liability on the day when the amount of the debt is to be ascertained and does not include an amount which might in the future increase the liability."

The Special Master. That rather proceeds on the assumption that the liability which accrues from time to time will be met as it accrues.

Mr. Hogg: Will be met as a debt.

The Special Master: Will be met as it accrues.

Mr. Hogg: As it accrues, yes.

The Special Master: Is that suggestion entitled to any significance in determining whether the payment of the interest as it accrues is or is not an ordinary expense?

Mr. Hogg: It seems to me that if it is a part of the debt at the time it is paid, it must necessarily not be an ordinary expense; because it is the extraordinary thing that has created it that inheres in it and becomes part of it.

The Special Master: The case proceeds on the assumption that the debt, the amount of which is being discussed and is extraordinary in its character, will be kept within that limit by the annual payment of this interest as it accrues from time to time. And the question is whether that presumption or assumption that the recurring interest will be paid as it accrues, does or not become then an ordinary expense. I suppose that is the pith of the whole proposition.

Mr. Hogg: Well, that is the position taken by the counsel for the plaintiff.

The Special Master: Yes, is not that right where the thing turns?

Mr. Hogg: From the standpoint that we are presenting now it could not be an ordinary expense because it is a part of the debt.

The Special Master: They will probably stand with you on the question that the accrued interest is a part of the debt and a due liability that they must meet presently. Now, where you part is whether or not the accruing interest paid from time to time by virtue of that payment from time to time under those circumstances does or does not become an ordinary expense.

Mr. Hogg: It seems to me that is a *non sequitur*.

The Special Master: True, it may be a *non sequitur*; but you agree up to that stage, and that is where you part.

Mr. Hogg: Yes. Now, then, if the Master please, let us see what their position would resolve itself into. They say it is a part of the debt when it has accrued and is unpaid; they say they admit that proposition.

The Special Master: To make a concrete illustration: There is an aggregate amount of interest of, say \$19,586,726. If that interest should remain unpaid up to January 1st, 1861, you would be obliged to pay a part of it under this ordinance.

Mr. Hogg: Undoubtedly.

The Special Master: The fact that it has been paid eliminates the liability?

Mr. Hogg: It is no longer a debt. It is extinguished.

Mr. Spooner: What do you mean to say—that you admit it would be a part of the ordinary expenses?

Mr. Hogg: No; I say it would be a part of the debt if they had never paid any interest.

The Special Master: Here is another way of putting it: If this interest which it has paid had remained unpaid, the eighteen or nineteen million dollars would be added to the thirty million dollars, and would constitute an aggregate of fifty odd millions, and that you all concede would be an indebtedness on January 1st, 1861, assuming that to be the correct amount, if the interest has not been paid?

Mr. Hogg. Yes.

The Special Master: Now then, that interest having been paid during this period, so that there was due only \$900,000—which appears in one of the schedules,—the interest thus paid is not an ordinary expense.

Mr. Hogg: No, it is not an ordinary expense.

The Special Master: And, not being an ordinary expense, it is not chargeable by Virginia to West Virginia under any phase of the Wheeling ordinance.

Mr. Hogg: No.

The Special Master: So that Virginia pays the eighteen or nineteen million dollars without being able to get any recourse from West Virginia.

Mr. Hogg: Because she provided that that should be a part of the debt, and we know she knew that it had been discharged so far as the interest was concerned, and she did not owe that debt.

Now let us see what the contention that they make resolves itself into. They concede that the accrued and unpaid interest is a part of the debt, they concede that.

The Special Master: Yes.

Mr. Hogg: Suppose that they let that run three years. It is still a part of the debt; is it not? Necessarily so. Let it run. Let it accrue from time to time. Now, then, that is not an ordinary expense of the Government, because it is now a part of their debt; it cannot be regarded as a part of the ordinary expenses of the Government; it is a part of the debt. It is a debt; it is their contract, entered into by a special contract. It remains a part of their debt until it is discharged. Now, does the fact that they have paid it convert it into an ordinary expense?

The Special Master: That is the point.

Mr. Hogg: That is an absurdity. According to that principle, when they pay the principal it becomes an ordinary expense of the Government. Suppose it accrued annually. The moment that they pay that amount they convert it into an ordinary expense, according to their logic. If it is an ordinary expense, it must remain distinctly marked as an ordinary expense; nothing they can do can change the character of it. They meet it as an ordinary expense, or else they meet it as an extraordinary expense.

The Special Master: If they paid it annually, they would be paying in annual sums, and that would be an ordinary expense. You cannot predicate the idea of an annual payment on the idea of a continuous debt.

Mr. Hogg: I did intend to read from the case found in 114 Georgia, at pages 467, 473 and 474, and also at 475; the case of *Parks v. Candler*.

Mr. Conley: Please indicate it if you do not care to read it.

Mr. Hogg: It lays down distinctly and clearly that in a strictly legal and technical sense a bonded debt embraces both principal and interest that may accrue upon the debt of that class.

The Special Master: What was the controversy in the case?

Mr. Hogg: I will tell you in a moment (referring to memorandum.)

The Special Master: That is, under what circumstances did the question arise?

Mr. Hogg: It was with regard to the payment of interest falling due on the bonded debt of the State, which arose from the sale of property in the State. It was in reference to the application by mandamus of certain moneys. The question arose and it was fully discussed as to what was the debt. It is a most interesting case, but since they concede that interest accrued and unpaid becomes a part of the debt I will not take time to read that case.

The Special Master: I understand you agree on that.

Mr. Conley: We agree, of course, that the interest is part of the debt. We do not agree to the corrolary, though, that Mr. Hogg appears to draw.

The Special Master: I understand that.

Mr. Hogg: While Virginia was paying off the interest from time to time after the commencement of the creation of her debt, she was all the while discharging the debt, and not at the same

time paying out money as a part of the ordinary expenses of her government. She was simply discharging her obligations to creditors which she had created, and nothing more. It seems to us to involve a contradiction of terms, when we say that when she was paying off the interest of her debt, and thereby discharging her debt *pro tanto*, she was at the same time defraying the ordinary expenses of her State government. She was only discharging a liability. The expenses of a State government are not liabilities of the State within any meaning of that term. Suppose Virginia on January 1, 1861, had been in arrears in the payment of interest on the debt to the extent of ten years instead of six months; would the interest paid prior to the last ten years be treated as ordinary expenses of the Government and the interest that has accrued and was unpaid during the last ten years be a part of the public debt? Certainly not. It was a public debt in every respect, although in part it had assumed the form of interest. And, as we have just seen, Virginia so treated it in stating the present accounts, by adding the accrued and unpaid interest for the six months immediately prior to January 1, 1861, to the principal, thus treating the accrued and unpaid interest as actually a part of her debt.

Virginia by her own act embodied in her Constitution of 1851, provided for the sinking fund with which your Honor is familiar.

In order to make this argument intelligible, I wish to call attention to some parts of that provision of the Constitution.

(Reading) :

“There shall be set apart annually, from the accruing revenues, a sum equal to seven per cent. of the State debt existing on the first day of January in the year eighteen hundred and fifty-two. The fund thus set apart shall be called the sinking fund, and shall be applied to the payment of the interest of the State debt, and the principal of such part as may be redeemable. If no part be redeemable, then the residue of the sinking fund, after the payment of such interest, shall be invested in the bonds or certificates of debt of this Commonwealth, or of the United States, or of some of the States of this Union, and applied to the payment of the State debt as it shall become redeemable. Whenever, after the said first day of January, a debt shall be contracted by the Commonwealth, there shall be set apart in like manner, annually,

for thirty-four years, a sum exceeding by one per cent. the aggregate amount of the annual interest agreed to be paid thereon at the time of its contraction; which sum shall be part of the sinking fund, and shall be applied in the manner before directed. The General Assembly shall not otherwise appropriate any part of the sinking fund or its accrued interest, except in time of war, insurrection or invasion."

Mr. Conrad: Of course you are not reading the whole of it; you are omitting that part of it relative to the investment of the fund in bonds.

Mr. Hogg: I am reading Section 29.

The Special Master: He is only reading that part which illustrates the point he is on.

Mr. Hogg: It will thus be perceived that Virginia regarded the interest on her public debt not as a part of the expenses of her government, for the reason that she sets apart by her own Constitution an annual sum to be applied to the payment of the interest of the State debt and the principal of such part as may be redeemable.

Thus she treats the State debt as composed of two things by her own Constitution; the interest as one of them, and the principal as the other. She has made this extraordinary provision to secure the payment of the interest and principal of her public debt. Seven per cent. of the accruing revenues of the government are to be used for this purpose and for no other purpose.

This fund cannot be applied to the expenses of her State government. She has not made any provision like this for the expenses of her State government. These matters are of ordinary occurrence, the payment of which is to be provided for by the ordinary revenues derived from taxation, after deducting the seven per cent. belonging to the sinking fund.

The fund thus created must necessarily be kept separate and apart from the funds available for the ordinary expenses of her State government.

Can it be that when she provided for this sinking fund by her organic law, requiring it to be kept inviolate, she designed to treat the interest of this debt as an ordinary expense of her State government? It was not to be paid out of funds available for the ordinary expenses of State government. She adopted a different

method for its payment from that authorized to meet the ordinary expenses of her government. She kept the fund available for the payment of the interest separate and apart from that to be used for the ordinary expenses of State government. Why this distinction between interest on the public debt and the expenses of the State government if they are to be regarded as one and the same thing? Why did she not let the interest take care of itself with reference to the revenue of her State government, if she designed to treat it as a part of her ordinary expenses? The fact is, she did not regard it as a part of the ordinary expenses of her State government, but regarded the interest as a part of her public debt, and therefore provided for its payment accordingly.

Now, when she framed her ordinance in her convention in August, 1861, and used the term "ordinary expenses" in section 9 of this ordinance, she was acting under her constitution adopted in 1851, whereby she did not treat the interest on her public debt as a part of her ordinary expenses. She has drawn a marked distinction between this interest and the ordinary expenses of her State government by virtue of this very Constitution. Can it be that, with this distinction before her, she meant to include the interest on her public debt as a part of the ordinary expenses of her government, when she had distinctly announced in her organic law that they were not?

The Special Master: That is, made specific provision for that independent of the ordinary expenses.

Mr. Hogg: Yes. Independent of the ordinary expenses. To ask this question is necessarily to answer it in the negative. Therefore, the conclusion must follow that in making up the account under this clause of the decree, the interest, which Virginia paid on her public debt was simply a payment of a part of her public debt, and can not be treated as a part of the ordinary expenses of her government.

Mr. Conrad: Of course, that conclusion is based upon the original proposition?

Mr. Hogg: No, it is based on the Constitutional provision of 1851. I am making that argument, and I am now entirely away from the abstract proposition, the soundness of which you gentlemen concede.

Mr. Conrad: Your view is an extremely interesting and in-

structive one, and I am very much impressed by your discussion of it.

The Special Master: Are you practically through on that paragraph? I have some questions on that, but if you have not concluded your argument, proceed.

Mr. Hogg: I think I have substantially said all that I care to say to present that view of the case to the Master.

The Special Master: Then, if I understand your contention, it is in substance that the aggregate of nineteen million dollars, to use that for a concrete illustration, having been paid from time to time as it accrued, is simply a liquidation of the indebtedness and not an ordinary expense?

Mr. Hogg: And not an ordinary expense.

The Special Master: And that is followed by the further suggestion that that is the interest on the debt, and that the State of Virginia received the benefit of the expenditure of the debt during that period and in a sense the benefits derived from the expenditure are presumed to offset the interest on the amount expended?

Mr. Hogg: Exactly. It seems to me that would be right from an equitable point of view, too.

The Special Master: And then the further proposition follows, of course, that the whole State of Virginia contributed to all these payments, whether by means of a sinking fund or otherwise?

Mr. Hogg: No, they borrowed the money to make the improvements—

The Special Master: They borrowed the money to make the improvements; but I mean the payment of the interest, that is, the payment of the nineteen million dollars was paid out of the common treasury?

Mr. Hogg: Yes.

The Special Master: That is immaterial, so far as the benefit to the people of the State is concerned and the various geographical sections, whether it was made through the medium of a sinking fund or the medium of direct taxation, because ultimately all the people paid it?

Mr. Hogg: Yes.

The Special Master: And your contention is that inasmuch as the people of the State were getting the benefit of the expenditure, that as an equitable proposition offsets the interest and in a sense

accounts for the fact that the just proportion to be divided was confined to the debt *per se*?

Mr. Hogg: That is it.

The Special Master: And justifies also the further conclusion that this not being chargeable to an ordinary expenditure, it is not chargeable at all?

Mr. Hogg: Is not chargeable at all.

The Special Master: Now, bearing upon that—and during all this period, of course, the territory now constituting West Virginia contributed its proportion of the public expenditure and its proportion of the payment of the interest?

Mr. Hogg: Yes, sir.

The Special Master: Do you contend, or do you concede, or what position do you take, that paragraph 9, which includes these various paragraphs, is to be construed as a whole? What ordinance?

Mr. Hogg: I think it ought to be construed together, the whole ordinance.

The Special Master: Does the fact that West Virginia under paragraph 9 is to be credited with moneys it has paid into the treasury of the Commonwealth during this period have anything to do with the reaching a proper construction of the amount that should be charged to West Virginia?

Mr. Hogg: I think not, because if West Virginia had not paid her just proportion of the ordinary expenses of government, they could not have made these improvements; in fact, they borrowed the money to make the improvements.

The Special Master: Well, West Virginia is going to give credit for all the money paid in, without reference to ordinary expenses or any others.

Mr. Hogg: Yes, that is true.

The Special Master: Then is Virginia to be deprived of charging West Virginia with what was a common charge during this whole period?

Mr. Hogg: Virginia is getting credit—

The Special Master: Let me give this illustration. Suppose during this period West Virginia had paid in one-third of this accrued interest in its contribution to the public funds. Of course it is simply a crude illustration. Now, then, is West Virginia to be credited in this settlement with that one-third and not to be

charged with the disbursements of the third? What do you say about the equity of that?

Mr. Hogg: It seems to me that would be perfectly equitable, for this reason—

The Special Master: That is to say, the State of Virginia to assume the whole burden in the adjustment of the whole sum, and then West Virginia to be credited with the proportion she has paid in, to be deducted from other charges?

Mr. Hogg: The State of West Virginia is called upon to bear her just proportion of the then existing public debt.

The Special Master: But the question is what significance is to be given to the crediting of West Virginia with the full amount it has paid in, in considering another provision which from your contention renders West Virginia immune or not liable for a common disbursement?

Mr. Hogg: Well, as I say, these improvements have been made and the State has had the exclusive use and control of them to do as she pleased—

The Special Master: West Virginia had her exclusive use—

Mr. Hogg: Now then, the resources of the State were not taxed for the purpose of creating a fund, and West Virginia is now going to pay Virginia for all the expenditures she made on those improvements. She ought not be required to pay more of that interest than the improvements represented to her, it seems to me, if you are going to take that.

The Special Master: Well, Virginia pays all of this nineteen million dollars?

Mr. Hogg: Yes.

The Special Master: In which West Virginia is equally interested with Virginia during the time of the payments?

Mr. Hogg: Yes.

The Special Master: West Virginia has contributed certain sums during this period to the public expenditure and is to be credited with that under the provisions of the Wheeling Ordinance. Should they be credited with what they have paid in, and not be charged with their proportion of what had been disbursed from the same fund? That is, I mean as a matter of equity, should that be done?

Mr. Hogg: If the Master were to take into account that the amount expended for public improvements was so much greater

in the State of Virginia then we would be paying for those improvements made within the Commonwealth—

The Special Master: Of course that involves another consideration. I am discussing it as a matter of principle.

Mr. Hogg: It seems to me that the disproportion of expenditures in the two States is so great that West Virginia ought not to be required to pay.

The Special Master: But we must proceed upon the assumption that in some way that proportion is to be adjusted in an equitable manner. The only suggestion I had here was whether this provision in the Wheeling Ordinance which credits West Virginia with everything paid into the public treasury is entitled to any weight in considering other provisions which result in a charge to West Virginia. That is to say, if West Virginia is to be credited with everything she has contributed to the public charges, why in construing it, should not West Virginia be charged with its proportion of all the public charges?

Mr. Hogg: For the reason, as I said a moment ago, first, they all had the use of these improvements during this time, during the time—

The Special Master: West Virginia had it the same as Virginia.

Mr. Hogg: But when it comes to West Virginia, the amount expended in West Virginia was so disproportionate to the amount expended in Virginia, that if you undertake to let her bear her share of the expenses of government, she will be paying more than Virginia would be paying.

The Special Master: But the presumption is that the ordinance is so formed that she will be charged ultimately with her fair proportion of the liability and ought to be credited with her fair proportion of what she paid in.

Mr. Hogg: Well, this is Virginia's ordinance, and if she has conceded to West Virginia any benefits that she ought not to, that is her own fault, and not our fault.

The Special Master: I agree with you there.

Mr. Hogg: And we say, when you drew this ordinance you did not treat your interest as a part of the ordinary expenses, and you did not expect us to treat it as a part of the ordinary expenses, because you have laid down the method by which we are to settle with you, and we think if you made that contract—

The Special Master: The question, to my mind, was this: When they give you full credit for everything which you have paid into the treasury, what weight that is entitled to have in construing the other proposition? That is, if they credit you with everything, you contribute to the common charges, ordinary or extraordinary—this credit here is not limited to ordinary or extraordinary expenses; this credit involves everything you paid in?

Mr. Hogg: Yes.

The Special Master: The question to my mind is whether that is entitled to any weight in considering that other provision which makes charges against West Virginia. If they credit you with everything you pay in, whether it applies to ordinary or extraordinary expenses, what weight that is entitled to in considering the balance of the ordinance in making charges to West Virginia? Do I make myself clear?

Mr. Hogg: Yes, sir; you do. There are two answers to the question. They take the position: We will charge you with all the ordinary expenses of our government—I mean with your just proportion of the ordinary expenses of the government. We will also charge you with all expenditures made within the territory. That is our proposition. And then you may be credited with all amounts paid from the counties composing the State into the public treasury. That is Virginia's proposition.

Suppose Virginia had embodied in the ordinance something that was contrary to the spirit of such proposition; in fact, against the very letter of it—that which would make West Virginia account for and pay back to Virginia part of the interest she had paid on the public debt. Then West Virginia would have answered, "Why, you have the amount of money expended in your territory, which is so disproportionate to the amount expended in our territory, that that would not be just." Therefore, Virginia, says, "We will take the ordinance as it is, and we will treat this as being settled, that this much of the debt is paid. And it is out of the question, and we shall go to work now and look to the future. We have borne our part of it. And the only way we can arrive at a just distribution of the part you have not paid is on the basis we have proposed." So it seems to me those two considerations ought to answer that question put by the Master, although they may not do so.

The Special Master: I simply suggested that to get your view of the subject, that is all.

Mr. Hogg: It was an uncertain thing, because it could not be told how much West Virginia had received. We know that more than nine-tenths of this was expended in Virginia, more than nine-tenths of the money.

Mr. Jordan: Does not this discussion on this point come down to the meaning of the ordinance?

The Special Master: The only question is whether these considerations have any weight or are entitled to any weight in reaching a construction.

Mr. Hogg: I would say this, if the Master please. If you were to go into the equity of it, (it seems to me I may be permitted a little partiality towards the State of West Virginia, although I do not know that I am partial) if we were to take that view of it, we would have to determine first the amount actually expended in Virginia. That is, she got the benefit of these improvements that this interest accrued upon.

The Special Master: You are only to be charged under the Wheeling Ordinance with the expenditures in your limits first.

Mr. Hogg: But here is the point: We would have to go back to the beginning of the system of internal improvements; we would have to begin with 1823.

Mr. Dawson: We would have to go beyond that.

Mr. Hogg: We might, but as it is we do not.

Mr. Dawson: It is not supposed that the men who made that ordinance knew those facts?

The Special Master: They are undoubtedly to be regarded as having a knowledge of the facts, that is, so far as they were matters of public record and so far as they existed in either constitution or in statutory law.

Mr. Hogg: If we were to take into consideration the debt already paid by the State—and I think she paid some part of the principal, or, at least, exchanged some parts of it for other bonds—if you were to take that into consideration you would have to ascertain how much of that fund went into Virginia and how much into West Virginia; because she is making West Virginia pay it, and if she only got one-tenth of the money she ought not to pay three-tenths of the interest.

The Special Master: Under this ordinance here, all you are to be charged with, of course—we are eliminating now the con-

troversy about the amount—is the State's expenditures within the limits.

Mr. Hogg: That is true.

The Special Master: That confines you, as a matter of liability, to what has been expended in the State of West Virginia. Under the item of ordinary expenses of the State government the question now is whether the fact that West Virginia is to be credited with everything she pays, irrespective of whether or not the fund that was thus made or thus contributed to by West Virginia was used to pay all kinds of expenses, every expense of the State government, sinking fund and everything else, ordinary and extraordinary, is entitled to any weight in considering this provision as to ordinary expenses? That is, is it equitable, for instance, for West Virginia to get full credit for everything it does pay in, when in the first instance it is only charged with what is expended within its limits?

Mr. Hogg: That is the question; and I repeat that that is a question which Virginia submitted in her ordinance in the light of the fact that she was treating the interest as part of the debt, and to that extent eliminates it.

The Special Master: Does that impress you as an equitable proposition?

Mr. Hogg: Yes, for the reason that the disproportion of the amount expended was so great.

The Special Master: But you ought to keep in mind that West Virginia was only charged with what she expended within her limits.

Mr. Hogg: If we should go on that basis, we would pay a great deal more interest than the improvements represent.

The Special Master: No; you are only to be charged with a just proportion of the ordinary expenses. Of course, I do not know just exactly what that may be predicated upon. The proportion of the ordinary expenses under the decree apparently is to be predicated upon, first, total population of Virginia with and without slaves; and upon their fair estimated valuation of the property.

Mr. Hogg: Suppose that would result in one-fourth or one-third, when as a matter of fact we did not get one-tenth of the money?

The Special Master: That is a misfortune we all labor under in

connection with human transactions. If we get a correct legal rule to start with, the presumption is that you will get the correct result; but if you get a just proportion we will have to assume that you only charged only a just proportion.

Now, you were relieved of liability on the sum of \$19,000,000. We will assume, for the purposes of illustration, that the proportion was one-fourth or one-third. You are relieved of liability for one-third, but you get full credit for everything you have paid in, which sum has been used heretofore in helping to extinguish liability.

Mr. Hogg: If that was the intention of Virginia, is not that right?

The Special Master: Yes; but that is not quite the answer. The question is, what weight that is entitled to in considering what ordinary expenses are?

Mr. Hogg: It seems to me that must be determined by the act, the language of the act of Virginia in her treatment of the public debt.

The Special Master: And all the language of the ordinance?

Mr. Hogg: Yes. If Virginia actually treated the interest on the public debt as a part of it and treated it as discharged and paid, and none of them had anything to do with it, then it seems to me it does not become a question of equity as to that matter; it becomes a question of equity as to what would be our just proportion of the public debt based on that method of settlement.

The Special Master: Your proposition is that whatever the equities may be, the parties saw fit to make a specific contract.

Mr. Hogg: A specific contract.

Now we come to the assessed valuation of the real property. That is to be the fair estimated value of the real property.

Mr. Anderson: Which clause is that?

Mr. Hogg: Clause 5.

Mr. Anderson: All the property, real and personal?

The Special Master: He is taking the real property first.

PARAGRAPH 5 OF THE DECREE.

Mr. Hogg: The assessed valuation of the real property by counties aggregates, in the State of Virginia, \$296,085,460.31 and in West Virginia \$82,449,252.04.

This appears on page 639 of the printed record, and is certified as correct. This is the assessed valuation according to the records of the State of Virginia, and the decree as amended requires the Master to report on the fair estimated valuation of the real property, and the statement contained in plaintiff's and defendant's joint exhibit E-1, page 639, was obtained from the latest obtainable assessment rolls prior to June 20, 1863. It seems to us that a lower basis than that assessed for taxation ought not to be accepted as the fair estimated valuation of real property. It is a matter of common knowledge that property is rarely assessed to the extent of its full value, and it is a matter of further common knowledge that it usually sells in the market for more than its assessed valuation. The exceptions are rare wherein property will not bring more than the amount at which it is assessed for taxation.

The Legislature of Virginia in March, 1862, and again in March, 1863, passed acts retaining unchanged the valuation of real estate as fixed by the last preceding assessment thereof made in 1856 under the acts of 1855 and 1856. See appendix to the record at pages 133-134.

Why were these acts passed preserving unchanged the valuation of the real estate of Virginia, if the former valuation made in 1856 was not the fair estimated valuation of such property at the time of the passage of these acts?

These acts ought to be taken as evidence of the very highest character as to the fair estimated valuation of the real estate of Virginia on March 28, 1863.

This act embodies the judgment at the time of its enactment of the intelligent representatives of all her people as to the value of the real estate of the Commonwealth. The previous valuation, which was still retained in 1863, was made by sworn officers of the law appointed for the purpose, and it is the consensus of all the people of the Commonwealth in the last days of March, 1863, that this valuation was then undiminished and was at least as great as it was in 1856.

When the valuation depended to any extent upon the buildings erected upon the land, their loss or destruction was to be considered in fixing the valuation, which was left to the local assessors to ascertain and determine.

In order to make myself understood in that regard, I wish to state that annually the commissioners of the revenue of the Com-

monwealth of Virginia, beginning with the first day of February in each year, were charged with the duty of assessing the value of all personal property. They were also to take into consideration the loss or destruction of buildings upon real estate every year.

The Special Master: They were to assess personal property?

Mr. Hogg: And to make an allowance on the real estate as to the value of the buildings, as compared to the value of the property, and deduct from it.

Mr. Conrad: Will you give me a reference to that, the legislative act authorizing that?

Mr. Hogg: I will come to that later. I will bring that up in connection with personal property.

Mr. Conrad: I refer to your stating that they had the power annually to provide for the loss on buildings.

Mr. Hogg: I will give that to you. I have not reached that yet in the course of my remarks. I hope it will not inconvenience you to give it to you a little later.

Mr. Conrad: Certainly.

Mr. Hogg: These local assessors were known as "commissioners of the revenue," and were charged with the annual assessment of the valuation of all personal property for the purpose of taxation.

But how were these commissioners to determine the valuation of the buildings that had been destroyed? The act itself of 1863 declares how this shall be done.

The Special Master: Were they commissioners of counties or commissioners of towns?

Mr. Hogg: In some counties they had as many as three districts for commissioners of revenue.

The Special Master: Administration districts?

Mr. Hogg: Administration districts. In some other counties they had two.

The Special Master: That is, the unit was not the town?

Mr. Hogg: And in some other counties they had one. In that case the county was the unit.

In 1863 the Legislature passed an act declaring how this should be done. As to this matter the act referred to provided as follows:

"The commissioner shall deduct from the amount at which such property stands assessed at its last assessment, such sum as is equal to a fair estimate of the permanent diminution in

the value thereof, caused by the invasion of such county, and of the permanent injury and damage inflicted upon such property by military occupation thereof, and the waste and violence incident to war. In making which estimate, he shall appraise and fix the amount of such permanent diminution, injury and damage, according to what would have been the standard and rate of valuation thereof if such permanent diminution, injury and damage had been estimated during the year eighteen hundred and fifty-six; and the remainder left, after deducting the diminution, damage and injury thus estimated, shall be the valuation at which such property shall be assessed by the commissioner."

In 1863 can there be any question, in view of these facts, that the assessed valuation of the real estate for the purpose of taxation was the fair estimated valuation thereof in 1863?

The Special Master: Do we get any results in the record in this case following the enactment of that legislation, showing the action of the commissioner thereon?

Mr. Hogg: We get the legislation as found in 1862 and 1863.

The Special Master: What date in 1863?

Mr. Hogg: As of February 1st.

The Special Master: What is the date of that legislation?

Mr. Hogg: March 28, 1863.

The Special Master: Have you got assessments since then that went into operation by virtue of that statute?

Mr. Hogg: We have the assessment of 1863, which was taken prior to June 20, 1863.

The Special Master: Yes; but have we any assessment in the case where the commission has acted apparently under the authority of this statute to reach their conclusions by virtue of its provision?

Mr. Conrad: We have no assessments of real estate after 1856.

Mr. Hogg: I know that.

The Special Master: The important question for me is whether the record discloses that after that legislation was enacted, authorizing the commissioners to make the deductions involved by the provisions of the act, we have anything here showing that the commissioners did so act, and therefore made the deductions. If we have

not anything in the record, then the statute may not be of any use to me.

Mr. Conrad: You will find the statute provides that where any man's property was injured by the war he can take his case to the county court—

The Special Master: The point is, that in order to be of value to me in reaching a conclusion, I must have something that is done by virtue of the provisions of that statute.

Mr. Carlisle: The owner must apply under this. It would be supposed, in the absence of proof, that any owner whose property has really been damaged could come forward—

The Special Master: I would like to hear you fully on that point. Here is the proposition: Suppose the statute did not go into effect until after June 20, 1863, and suppose it went into effect so shortly before June 20, 1863, that nothing practically could be done under it.

Mr. Hogg: I can state that the truth of the matter is that they had the assessors' books of 1863, the real estate books, and they passed through the hands of the commissioner of revenue every year. So they had it for 1863, and the work that they did in '63 was all there, every bit of it.

The Special Master: Did those books go through the hands of the commissioners of revenue prior to the enactment of this legislation, or subsequent thereto?

Mr. Hogg: This was intended to take effect at once.

The Special Master: But what I want now are the facts.

Mr. Hogg: Well, the truth of the matter is that the assessment began on February 1st and the act of 1863 took effect eight weeks afterwards. It is impossible for the assessors in fixing the value of all that land in that country not to have been guided by the act of 1862 and the act of 1863, both of them preserving unchanged the valuation of 1856, and taking into consideration the proportionate value of the destruction as of 1856 for the loss of buildings.

The Special Master: The Act went into effect when?

Mr. Hogg: The 28th of March, 1863.

The Special Master: For the purposes of illustration, we will take some one district. Suppose it appears, if the assessment list is submitted as a part of this record, that that list is dated prior to March 28, 1863.

Mr. Hogg: They were to have until July.

The Special Master: Of course, if the assessment lists were dated later--

Mr. Hogg: They were; they were dated the 1st of July. That was the law, that they were to begin the 1st of February and close it by the 1st of July.

The Special Master: The assessment of personal property--

Mr. Hogg: But it does not matter; they had a like act in 1862.

The Special Master: The same provisions?

Mr. Hogg: The same provisions, yes, sir.

The Special Master: Then that is different, of course.

Mr. Hogg: So that there can be no question about it.

The Special Master: They were taking the Act of 1862?

Mr. Hogg: Yes.

I say can there be any question, in view of these facts, that the assessed valuation of the real estate for the purpose of taxation was "the fair estimated valuation" thereof in the year 1863? It seems to us that this ought to be conclusive as to the matter of the valuation of real estate in the Commonwealth, and that the amounts appearing in plaintiff's and defendant's joint exhibit E-1 ought to be accepted as the fair estimated valuation of the real estate of the respective parties. That is, the one found in that exhibit. It is taken right from the commissioners' book. It will be remembered that the land was valued for the purpose of taxation.

The Special Master: We have not got any complete list for any year.

Mr. Hogg: No; wherever it was short, say for one county or part of a county, we took the preceding list.

The Special Master: You took the latest list you could find?

Mr. Hogg: Yes. Now we come to the subject of personal property.

PERSONAL PROPERTY.

According to the plaintiff's and defendant's joint exhibit E-1, page 639 of the printed record, the assessed valuation of slaves, as per latest obtainable assessment rolls prior to June 20, 1863, estimated in part, is \$250,355,007.00 in Virginia and \$5,654,593.00 in West Virginia.

The assessed valuation of personal property other than slaves, as per the same statement on the same page and from the same source,

is \$152,649,447.59 in Virginia and in West Virginia \$24,739,894.21.

Included under the list of personal property is the amount derived from incomes, on which tax was levied, as shown by the latest obtainable assessment rolls prior to June 20, 1863, and was in Virginia \$11,106,345.13, and in West Virginia \$299,257.45.

These respective amounts were taken from the latest obtainable assessment rolls made out by the commissioners of the revenue. Where there was a county or part of a county—

The Special Master: I understand the parties concede that that is the best evidence we have on that point?

Mr. Hogg: The best evidence we have, yes.

It will be perceived that this assessment was made as of a date on and prior to June 20, 1863, and represents all the personal property in the territories of the respective States on the basis of its value for the purposes of taxation. It is also shown that the personal property was annually assessed by officers duly chosen and qualified for the purpose. It is a matter also of common knowledge that local assessors of personal property for the purposes of taxation usually consult the owner touching its value, taking statements from such owners relating to the value of their property upon which they are to be assessed for taxation, and in most instances these statements are under the sanctions of an oath administered by an officer authorized to make and return the assessments. Can there be found any better method of fixing the valuation—that is, in the language of the decree, the “fair estimated valuation”—than that afforded by the actual assessments of the property for the public purpose of taxation.

The Special Master: What is that; an annual return required by law, that you just referred to?

Mr. Hogg: Yes.

The personal property of Virginia was assessed for taxation in the year 1863 by commissioners of the revenue, provided for in Chapter 35 of the Code of Virginia of 1860, in many of the counties of the State there being not less than three of these commissioners and in the other counties not less than one. In some counties there were two. I undertook to count them up as best I could, and I make them nearly one hundred and sixty, possibly fully one hundred and sixty. It was their duty under the law, as shown by Section 61 of said Chapter 35, to begin annually on the 1st day of February in

each year, and ascertain all persons and property in the district on that day subject to taxation.

The Special Master: And the man is subject to taxation in the place where he then lived?

Mr. Hogg: Yes.

The Special Master: That is, for his personal property?

Mr. Hogg: And if, on the previous day he had made sales of a great many cattle or anything else like that, he did not have to pay taxes on them on the 1st day of February. It is not that the assessor is supposed to get around and see these people but what he does is made as of that day.

The Special Master: That is, made of that date predicated on both residence and property?

Mr. Hogg: Yes. It was their duty, as I have said, as shown by Section 1 of Chapter 35, to begin annually on the 1st day of February of each year to ascertain all persons and property in the district on that date subject to taxation. It was further made the duty of the commissioner, by the same section, to call upon every person in his district and obtain from such person a list of the property, moneys, credits or other subjects of taxation and the value thereof, or of the persons in respect to which he was chargeable with county levies for such lists. It was the duty of the commissioner to ascertain and assess the value of all property other than slaves, and this list was to be made out with reference to the 1st day of February. It was made the duty, by this chapter, of the person liable to taxation to furnish a list on blanks supplied to him by the proper officer for the purpose of enabling the commissioner to make a fair valuation of the property in such lists for taxation. That part of the statute relating to this matter is as follows:

“If any person shall refuse to exhibit to the commissioner any property listed or required by this Act to be listed by him, in order that a fair valuation thereof may be assessed, he shall pay a fine of not less than twenty nor more than one hundred dollars. Any person failing to comply with this section shall be noted at the end of the commissioner’s property book, or be otherwise specially reported by the commission to the Auditor of Public Accounts.”

(Code of Virginia, 1860, Chapter 35, Section 68.)

This law further provides:

“From the lists procured as aforesaid, the commissioner for each district shall make accurate statements in the form to be prescribed by the Auditor of Public Accounts, which shall truly and distinctly set forth—”

and it goes on with quite a long list of every conceivable kind of personal property which a person might become the owner of.

Mr. Conrad: We have two or three of those personal property books.

Mr. Hogg: The commissioner shall return this to the Auditor with the value of these items, after he has assessed them and the assessment must be made by the commissioner at a fair valuation of the property. The Code of Virginia of 1860 contains all laws of a general nature in force in the State on March 19, 1860, and in this Code is found the law prescribing the method of assessing all property within the State for the purpose of taxation.

The assessors, as we have seen, were to be furnished a list by each tax-payer containing the items set forth as above, “in order that a fair valuation thereof may be assessed.” All personal property was to be assessed on the basis of a “fair valuation,” except slaves, the taxation of which is provided for in the Constitution of 1851, which appears in the volume containing the Code of 1860 at page 46.

Section 23 of Article 4 of the Constitution reads as follows:

“Every slave who has attained the age of twelve years shall be assessed with a tax equal to and not exceeding that assessed on land of the value of \$300. Slaves under that age shall not be subject to taxation; and other taxable property shall be exempted by a vote of the majority of the whole number of members elected to each house of the General Assembly.”

It will thus be perceived that the organic law of the State, which was in force in 1863, fixed the value of all slaves at a specific sum, which was to be equal to and not exceeding that assessed on land of a value of \$300.

Mr. Anderson: That had been repealed by the Constitution of 1861.

Mr. Hogg: In 1863 you did not have any Constitution except that, did you?

Mr. Anderson: Oh, yes; the Convention of 1861 repealed that and required all slaves of all ages to be assessed at their fair valuation.

Mr. Hogg: Then that is all the better. Then you have the slaves assessed at their fair valuation.

Mr. Anderson: Yes, in Confederate money.

Mr. Hogg: That does not affect the situation at all.

When the work of each commissioner of the revenue was completed, and he had made out his book of personal property there was to be appended to each of the three copies to be by him made out the following oath, which the commissioner was to make and subscribe:

“I, A. B., Commissioner of the Revenue for the County (or corporation) of ———, do swear that in making out the foregoing list I have, to the best of my knowledge and ability, pursued the laws prescribing the duties of a Commissioner of the Revenue.”

The Justice before whom the oath was taken was required to annex thereto the following certificate:

“Sworn to before me, C. D., a Justice for the County (or corporation) of ———, on the ——— day of ———.”

It has been expressly held that where the question of the valuation of property arises, the law presumes that the public officer charged with the duty of assessing has complied with the laws prescribing his duties, and until the contrary appears, the valuation is presumed to be a just one. See the caution that was exercised or required to be taken in order that a fair valuation of this property might be assessed.

The oath at the foot of the copy of the land book was required to contain these additional words:

“That I have faithfully discharged the duties required of me in assessing improvements upon lands, and have made all corrections in said book, as required by law.”

So it is seen that they were handling the land book for the purpose of revising it, to see whether the valuation of the buildings, that is the valuation including the buildings—

The Special Master: Whether there should be any reduction made?

Mr. Dawson: Or any addition.

Mr. Hogg: A good suggestion, yes; or any addition.

The Special Master: But does the statute provide that also?

Mr. Hogg: Yes; “and have made all corrections in said book as required by law.” So that this commissioner of the revenue was charged with the solemn duty of not only revising the land book and returning it, but also of all personal property not exempt from taxation within the Commonwealth of Virginia, and to assess it at its fair valuation. Now, did these commissioners do their duty?

Mr. Conrad: What section is that?

Mr. Hogg: It is all in the same Act.

Mr. Conrad: It is the assessment of the real estate?

Mr. Hogg: That is as to the improvements. You have retained, I think, substantially the whole law there. Did these commissioners do their duty when they were required to assess for taxation all personal property except slaves at its “fair valuation”? They were required to make oath that they had done so, and of course they would make oath to such fact. This they did in the year 1863, to have effect as of the first day of February; and it is not likely that any material change in the value of property could have taken place in the short time that elapsed between February, 1, 1863, and June 20, 1863.

The Special Master: If the books are not closed until July 1st, that covers the period between February and July 1st.

Mr. Hogg: It would do so; I had not thought about that. These commissioners, a great many of them, were living in the State of Virginia, and could have been called and examined as to whether or not the valuation they placed upon the property was a fair valuation. They were not called upon to state whether they had omitted anything required of them in the discharge of their duties under the law prescribing them. The presumption of law is that they did their duty as officers of the State of Virginia, and this presumption must obtain and be accepted by the court as true until it is removed by competent evidence. There is not one scintilla of proof in this record that these commissioners violated the law by

accepting the uncertain and fluctuating value of Confederate currency as the standard for determining the value of personal property in that State in 1863.

The Special Master: Before you reach that have you made any examination of the records to see what difference there is in the assessed valuation of specific items of personal property?

Mr. Hogg: In previous years compared to 1863?

The Special Master: 1863 compared, for instance, with 1858, 1859 and 1860. For instance, are horses valued substantially the same in 1863 as in 1858 or 1859?

Mr. Hogg: Practically the same, yes.

Mr. Carlisle: Oh, we have the assessments by counties for 1860, 1861 and 1863.

The Special Master: I have not made a comparison myself.

Mr. Hogg: It does not vary much.

The Special Master: In the main, your contention is that it shows a dead level of valuation?

Mr. Hogg: Yes, sir.

The Special Master: That is, no fluctuation of any consequence.

Mr. Hogg: No fluctuation of any consequence.

The Special Master: Your proposition is—

Mr. Hogg: That that valuation in 1863 is the fair estimated valuation.

The Special Master: And it is so parallel to the previous valuations that they are evidently made on the same basis?

Mr. Hogg: That is my contention.

The Special Master: That is, there is nothing on the face of the assessments that indicates a change in the standard of valuation?

Mr. Anderson: My friend is mistaken about that. There was a different standard used.

The Special Master: I think bearing upon this branch of the contention, that I would like to have counsel call my attention to the points in the record stating their positions, pro and con, on this subject. You get my point, General Anderson?

Mr. Anderson: Yes. But there is very little in the record on the subject.

The Special Master: We have to take the best we have

Mr. Hogg: I make this proposition. That there is not a scintilla of proof in the record that these commissioners violated the law by accepting the uncertain and fluctuating value of Confederate cur-

rency as a standard for determining the value of personal property in that State in 1863. It matters not how many times the Confederate and Federal armies passed over parts of Virginia, it remains a fact that the assessed valuation of all personal property as of the 1st day of February, 1863, was what appears in Exhibit E-1 at page 639 of the record.

The Special Master: We have not the counties of Virginia for 1863 complete, but have we the counties that were practically the theatre of war? We have not complete counties of Virginia for any year, as I understand it, and particularly we have not got them for 1863.

Mr. Carlisle: We have not a complete assessment for each county. Sometimes we have to take in 1862 the assessment of 1861, and sometimes in 1863 we have to take 1862; but we have a complete list of the counties, and from that your Honor can ascertain very easily the counties that were the theatre of war.

The Special Master: You practically take for 1863 the valuation predicated upon the nearest obtainable assessments?

Mr. Hogg: Yes; and in most cases actual assessments for that year.

The Special Master: My inquiry is this: Whether we have in the record for 1863 the actual assessment for the counties that were the theatre of war?

Mr. Carlisle: I could not answer that.

The Special Master: I thought perhaps Mr. Hogg could answer that.

Mr. Hogg: I am not familiar in detail with that.

The Special Master: For instance, if the commissioners returned substantially the same personal property in the counties of Virginia which were the theatre of war in 1863 and 1862—

Mr. Anderson: The fact is that there was no assessment at all in many of the counties in 1863, because of the war.

Mr. Hogg: I wish to say this: That there were only certain counties of Virginia that were subject to the ravages of war, and the greatest of those ravages were committed after June, 1863. Prior to that nearly all the counties were in control of the Confederate forces, whose interest and duty it was to protect the persons and property of the citizens of Virginia from injury or destruction, and I have no doubt that they did it.

The Special Master: What were the counties that were principally ravaged by war?

Mr. Hogg: I have a memorandum showing that.

Mr. Conrad: All the counties in the Shenandoah Valley—Clarke and Shenandoah and Warren, and up to Rockingham.

Mr. Hogg: The Valley of Virginia; and Berkeley was in it, and so were Jefferson and those other counties above there. But the great injury to the Valley of Virginia was done by Sheridan after June 20, 1863.

Mr. Conrad: The town of Winchester was occupied by Banks.

Mr. Hogg: I know; but I am speaking about the destruction of property.

Mr. Conrad: There was a destruction of forests wherever his army came.

Mr. Hogg: I make this statement, and I think I am borne out by history: That prior to June 20, 1863, nearly all of the counties of Virginia were in control of the Confederate forces, whose interest and duty it was to protect the citizens from the destruction of property, by the armies of the Confederacy. It is fair to presume that there were no injuries inflicted upon the inhabitants of Virginia or upon their property by the Confederate forces. In fact, if I may be permitted to speak of it, it was the just boast of General Lee that wherever he went his army spared property, and I am sure that policy permeated the management of the Confederate forces when Lee was in command of the Army of Virginia. It was after 1863, when Grant came in there, that a very considerable injury in certain localities was done to property in the State of Virginia, and that was done by massing large armies; and in Sheridan's raid down the Valley after 1863.

The Special Master: What was the date of Sheridan's raid?

Mr. Hogg: It was in 1864, in July or August, I am not sure which. I know it was in 1864. That was the time they fought the battle of Cedar Creek.

Mr. Anderson: That was in October, 1864.

Mr. Conrad: Here is what you are speaking of in 1864 (reading from a book):

“If Hunter cannot get to Gordonsville and Charlottesville to cut the railroad, he should make all the valleys south of the Baltimore & Ohio Railroad a desert as high up as possible. I

do not mean that houses should be burned, but every particle of provisions and stock should be removed and the people notified to move out."

"He (Grant) further says: 'He wants your troops to eat out Virginia clear and clean as far as they go so that crows flying over it for the balance of the season will have to carry their provender with them.'"

That is H. W. Halleck, Major-General.

Mr. Hogg: The evidence taken in this case by the plaintiff, in an attempt to disparage and lessen the valuation of the personal property in the State of Virginia that was assessed for taxation in the year 1863, is so vague, indefinite and uncertain that it can hardly be dignified with the name of evidence. It does not affect or in any wise disturb the proposition that the assessed valuation on the basis of its fair valuation shown by the records of Virginia in 1863 is not the "fair estimated valuation" of all the property. As to the valuation of slaves, that was fixed by her organic law in 1851 and never thereafter changed. Indeed, it seems to us that three hundred dollars was a very conservative estimate to be placed on a slave over twelve years of age. It will also be remembered that Virginia had much property in the form of slaves under that age that was exempt from taxation, and of which no account was taken by the State or her officers in ascertaining the extent and value of her property for the purposes of revenue.

We have now reached clause 6 of the decree, which I expected to reach long ago.

The Special Master: What do you say about their contention that the valuation of the personal property should be reduced seventy-five per cent. upon the ground that at that time by virtue of the statute law of Virginia all taxes were payable in Confederate money?

Mr. Hogg: It may be that taxes were payable in Confederate money.

The Special Master: I suppose their argument is that the assessors with a knowledge of that fact made an assessment accordingly. I presume that that is their argument.

Mr. Anderson: It is also proved and not contradicted in the case

that all transactions in the Confederate States were made with reference to Confederate money as the standard of value, and that there was no other standard of value.

The Special Master: My question, is what weight is that suggestion entitled to?

Mr. Hogg: I think this, that when you look at the assessments made in 1861, and of all the counties in Virginia, and compare them with 1863, you would find no such difference as would justify the attempt to depreciate it 75 per cent.

The Special Master: In other words, your first suggestion is that the facts show that the conclusion for which they contend does not follow?

Mr. Hogg: That the conclusion does not follow, yes; and furthermore that the assessors in fixing the value would fix the fair valuation not in Confederate money, but in what it would sell for in money. Confederate money was simply a medium of exchange, and as the best evidence of that, when they undertook to fix the value of land in 1863 they did not fix it on a Confederate basis.

Mr. Dawson: Did they not provide that the commissioners should not do it?

Mr. Hogg: I am coming to that.

The Special Master: Do they not relegate it to a basis of 1856, which was on a gold basis? That is your suggestion Governor Dawson?

Mr. Dawson: Yes, sir.

Mr. Hogg: The reason they did that was for the purpose of preserving the uniformity of valuations in their real estate. They certainly would not discriminate against the holder of real estate in 1861 as against the holder of personal property in 1861; because a man having a hundred dollars' worth of real estate would be assessed on that basis, and a man having a hundred dollars of value in a horse might have to pay taxes on four hundred dollars if the method suggested were pursued.

The Special Master: Their answers to that is that the valuation of 1856 continued and the assessors did not have any right to change it except on a basis of improvements or deterioration in its improvements.

Mr. Hogg: Another answer to that is this: Why did not they call the assessors who made the valuation and prove by them the basis on which the valuations were made?

Mr. Anderson: Because we could not find a single one that is living. I tried to find one, I did my best, and not a single one could be found.

Mr. Hogg: It seems to me to be easy to find some one now living who was an assessor in 1863.

Mr. Anderson: If any were living, they would have to be ninety years old or more, because everybody under forty-five was in the army. The assessors in Rockbridge county at that time, I know, were sixty or sixty-five years old.

Mr. Hogg: There has been no effort to show on the record that every assessor, a single one of whom would be sufficient to enlighten us on this matter, has passed into the great beyond. One such man would be sufficient. "What basis did you pursue?" "I took the four to one value, which made the holder of personal property pay taxes four times as great as a man holding real estate." Although when you take the improvements off, they were to be valued, not on the inflated basis of 1863, but on the gold basis of 1856. According to that, they ought to have wiped out nearly all his lands, because the idea is inflation; it is not the standard; it makes it four to one.

The Special Master: Your argument is that if the Legislature contemplated or understood that the assessments were to be made on the basis of the inflated value, that when they were legislating in relation to that subject in February, 1863—and 1862, too—upon questions relating to valuations, that they would have treated the valuation of real estate from that hypothesis?

Mr. Hogg: Undoubtedly.

The Special Master: And you say that the fact that they did not do that indicates that they were assuming it was assessed upon the original basis?

Mr. Hogg: And they took that as a standard, and that was the standard; it was only inflated four times from its basis of gold, and they took gold as a standard and they measured the value of Confederate currency notes from the basis of a gold dollar. In other words, it took four Confederate dollars to buy one gold dollar. That was the basis; they never had changed the basis of valuation. It was a currency, it was property, it was not money.

The Special Master: Your argument is that the authority to pay Confederate money was not for the purpose of affecting the valuation, but to make it easier for the people to pay their taxes?

Mr. Hogg: That is my proposition.

The Special Master: That is, it tended to relieve the burden by enabling the people to pay in the general currency?

Mr. Hogg: Yes; but for the purposes of taxation they still continued the gold basis and they relegated everything to the gold basis, and this money that was called Confederate money continued as a medium of exchange, resting really on the gold basis.

The Special Master: I suppose contracts made down there were dischargeable in the same way?

Mr. Hogg: In the same way, undoubtedly.

The Special Master: That, is during the prevalence of the Confederate government; the contracts made during that period could be discharged by the currency in force under the government?

Mr. Hogg: Yes.

Now, then, they having pursued this standard and having fixed it in their assessment rolls, there can be no ground, either from the evidence in this case or the laws of Virginia, to cut down that valuation, because it is already at its fair estimated valuation on the standard of gold as a measure of value.

As is suggested by one of my associate counsel, everything that went on was transacted, there by means of Confederate currency. If a man worked a day he got paid in Confederate currency. If he bought a horse, if he didn't have gold, he bought it in Confederate currency. If he had gold, he would evidently pay one-fourth as much. But at the same time, the business of the country had not gotten away from the fact that gold did not fluctuate; it had an intrinsic value by which other things were measured. Therefore, their assessments were made that way. The value of the real estate was made that way, and as suggested by the question propounded by the Master, they used Confederate currency there because it was more convenient for the purpose of paying the taxes.

The Special Master: That tended to relieve the burden of the taxes there by compelling the sheriff to receive the tax in that currency?

Mr. Hogg: Yes.

The Special Master: Of course it would have been a great burden to have compelled them to have gotten gold or greenbacks, because it was practically impossible to obtain them?

Mr. Hogg: Yes. Anywhere in the country gold was difficult of access. As an illustration of that, you might say that in the loyal States they were using mainly greenback currency. Of

course, gold was a very rare thing to use. For instance, down in West Virginia property was assessed for valuation on the basis of greenback currency, and we had not lost sight of the fact that it would bring more at sale than we had assessed the property for. The same way in Virginia. Look at the specific items—horses and cattle and things of that sort. It will bring a great deal more, by common knowledge, than that for which it is assessed.

The Special Master: Do you say it was assessed in West Virginia on the greenback basis?

Mr. Hogg: I cannot say it was assessed on the greenback basis, but we paid taxes in greenbacks.

Mr. McClintic: It was assessed on a gold basis.

Mr. Hogg: Yes, I think it was assessed on a gold basis.

The Special Master: I suppose, then, the two States were fairly parallel. Taxes assessed on this valuation in West Virginia were payable in greenbacks, and taxes assessed on this in Virginia were payable in Confederate notes?

Mr. Hogg: Yes. It was the only thing available. If they had been driven to the stress of getting gold or silver they could not have gotten it.

Mr. Dawson: It would have been virtual confiscation of their property.

Mr. Hogg: Yes.

PARAGRAPH VI.

Mr. Hogg: This clause of the Decree requires the Master to ascertain and report—

“All moneys paid into the Treasury of the Commonwealth of Virginia from the counties included within the State of West Virginia during the period prior to the admission of the latter State into the Union.”

This provision of the decree requires the Master necessarily to determine what moneys came into the Treasury of the Commonwealth of Virginia from the counties within the present territory of West Virginia.

At page 805 of the record there is Joint Exhibit F-1 showing all moneys paid into the treasury of the Commonwealth of Virginia

from the counties included within the State of West Virginia from March 19, 1823, to December 31, 1860, inclusive. This exhibit shows the amount agreed upon by plaintiff and defendant conceded by Virginia as credits to West Virginia under this paragraph of the Decree, amounting in the aggregate to \$5,954,395.65, while the total claimed by West Virginia is \$7,051,215.56, there being, therefore, \$1,096,819.90 claimed as moneys paid into the treasury of the Commonwealth of Virginia, but denied by the plaintiff as coming within the purview of Paragraph 6 of the Decree. The items constituting this difference are eleven in number, and appear separately in the exhibit referred to, at page 805 of the printed record.

This clause of the Decree was evidently inserted to meet the provisions of the ordinance of 1861, providing for the manner of ascertaining West Virginia's just proportion of the public debt of the State of Virginia. The language of the Decree is:

“All moneys paid into the treasury of the Commonwealth from the counties included within the State of West Virginia.”

This evidently means moneys paid into the treasury from all sources whatsoever. It is not restricted to moneys raised by taxation from the inhabitants dwelling within the respective counties within the territory of the new State. Had it been the intention of the framers of the ordinance, and the court in framing the decree in the light of the provision of the ordinance, to limit the sources from which the money came that was paid into the treasury of the Commonwealth, such intention of limitation would have been evidenced by expressed words, but there is no limitation as to sources whence the money must come in order that credit may be given therefor to the State of West Virginia. If banks were located in counties in West Virginia from which moneys were paid into the treasury of the Commonwealth, would not such moneys come from a county or “counties included within the State of West Virginia?” So, if money in the form of dividends came from banks located in counties in West Virginia, were not these dividends “moneys paid from the counties included within the State of West Virginia”? Were not these banks just as much a part of the State's resources for the purpose of revenue, to be used in the administration of government, as were direct levies of taxes upon real and personal property?

Was it not the intention that while West Virginia should bear her just proportion of the ordinary expenses of government, she should, at the same time, have credit for all revenues in whatsoever form arising that came from the counties within her boundaries that went into the treasury of the Commonwealth of Virginia? Was not this the spirit and purpose of the framers of the ordinance when they provided therein for this credit for "moneys paid into the treasury of the Commonwealth from the counties included within the said new State"?

The framers did not declare therein that moneys derived from taxation paid into the treasury of the Commonwealth from these counties would be credited to West Virginia. No such qualification was made. If none such were made can a qualification be now engrafted upon this ordinance by mere construction? This ordinance was framed by the representatives of the people of the Commonwealth of Virginia, just as representatives would frame the organic law for the State; and the language used in such documents must be given its plain and common meaning. So when they used the term "moneys from the counties" it meant any moneys coming from any of the counties within the territory of the proposed new State.

The Special Master: Your position is that anything that came in the geographical area included in the limits of these counties that went into the public treasury you are entitled to credit for?

Mr. Hogg: Yes, sir.

Mr. Spooner: It would have been the same thing if instead of using the word "counties" they had used the word "territory."

The Special Master: Yes, precisely the same.

Mr. Hogg: Following that method of construing the Decree, based as it is on the ordinance, it seems to us that the seven million dollars contended for by the defendant are clearly shown to have come from the territory of West Virginia.

The Special Master: There are two items that Mr. McClintic abandoned in his argument, and those are \$571 and \$5,471. As to those you withdraw those items?

Mr. Hogg: Yes. One observation on clause 7, and then I will be through.

PARAGRAPH VII, EXHIBIT G-1.

Mr. Hogg: (continuing) Under Paragraph 7 of the Decree, the Master is required to ascertain and report:

“The amount and value of all money, property, stocks and credits which West Virginia received from the Commonwealth of Virginia, not embraced in any of the preceding items and not including any property, stocks or credits which were obtained or acquired by the Commonwealth after the date of the organization of the restored government of Virginia, together with the nature and description thereof.”

The restored government of Virginia was organized in June, 1861. Any property, stocks or credits acquired by the Commonwealth thereafter are not to be considered by the Master in making up his report under this clause of the Decree.

The plaintiff in her exhibit G-1 has not attempted to show the receipt by West Virginia of anything except \$170,771.46 in money, purporting, according to her exhibit, to have been received in the months of July, 1863, and February, 1864. That West Virginia is chargeable with this sum she denies, as appears from the Plaintiff's Exhibit G-1.

It seems to me that all we have to do to determine that that is not a proper charge under Clause 7 of the Decree is to look at the Act passed May 14, 1862.

(Reading:)

“1. Be it enacted by the General Assembly that there shall be and is hereby appropriated out of any money in the treasury not otherwise appropriated to the State of West Virginia, when the same shall become one of the States of the Union, one hundred thousand dollars.

“2. Be it further enacted that so much of the public revenue due the State of Virginia from the counties embraced within the boundaries of the proposed State of West Virginia, including bank dividends and all money from any source whatsoever, due the State, as shall not have been paid into the treasury of the State at the time of the admission of the

proposed State of West Virginia as one of the United States, shall be the property of the said State of West Virginia, and the several sheriffs and other collectors of the public revenue, and all persons holding money due the State within the said boundaries, shall pay the same into the treasury of West Virginia. All of the appropriation made by this Act shall be charged to the State of West Virginia in the settlement between the States of Virginia and West Virginia.

“3. This Act shall be in force from its passage.”

Under that Act of May 14, 1862, all moneys received by the proposed new State of West Virginia would be properly chargeable to her under Clause 7, but for one thing. On February 3, 1863, the Commonwealth of Virginia passed an Act, by her General Assembly, transferring certain properties and so forth, to the new State for which she was to account, creating by that Act an independent liability, as I said before, separate and distinct from the debt itself as such, but to be settled when they settled for the debt. That, in effect, then was cumulative to the Act of May 14, 1862.

Now, then, on February 4th the General Assembly of Virginia passed an Act increasing the appropriation of one hundred thousand dollars to one hundred and fifty thousand dollars, and expressly repealed the Act of May 14, 1862, making an appropriation of one hundred thousand dollars for which she was to account to the old State, thereby evincing as clearly as a State government may speak—

The Special Master: What is the date of this last Act?

Mr. Hogg: February 4, 1863.

The Special Master: Found on what page?

Mr. Hogg: Found on page 131. The other one was May 14, 1862. I say this Commonwealth evinced as clearly as it was possible for her to speak as a sovereign State through her legislative body, that it was intended not to charge us with this, it is not properly chargeable, because it was not intended to be a charge by the Legislature and because the very Act previously passed designed to make it a charge is expressly repealed by the same body.

The Special Master: Had anything occurred under the previous Act?

Mr. Hogg: Nothing at all.

Mr. Anderson: If they had not repealed the former, there would

have been two appropriations, one for one hundred thousand and the other for one hundred and fifty thousand.

Mr. Hogg: This Decree says the amount and value of all money, property, stocks and credits which West Virginia received from the Commonwealth of Virginia, not embraced in any of the preceding items and not including any property, stocks or credits which were obtained or acquired by the Commonwealth after the date of the organization of the restored government of Virginia, together with the nature and description thereof. The appropriation was made in 1862. The act making an appropriation in 1863 repealed that law, which showed that it was designed to be a charge against the State.

The Special Master: But before the passage of the Act of 1863, had there been anything done under or by virtue of the appropriation in 1862?

Mr. Hogg: No, sir; because the one hundred and fifty thousand dollars is what they charged under and by virtue of the Act of February 4, 1863. They charge it under that Act.

Now, then, these are all the Acts of the Commonwealth of Virginia. Suppose, if the Master please, upon examining these two Acts, taking them in conjunction with each other in point of time, one having been passed in May, 1862, and the other having been passed in February, 1863, you are satisfied that the Commonwealth of Virginia did not intend to make any charge; it would not be properly chargeable.

The Special Master: That is not what the paragraph calls for, Professor. The paragraph calls for the amount and value of all money, property, stocks and credits which West Virginia received from the Commonwealth of Virginia, and that is not a question of whether it is charged or not, but the question is whether it was received. Now, then, if it was received, and received under circumstances I ought to take note of it may be up to me to suggest those circumstances—if it was received. If these items were received from the Commonwealth of Virginia by West Virginia I am bound to say that they were received. Now, that raises the question which we discussed the other day, whether it is not proper and whether I would not be bound to suggest the circumstances under which they were received.

Mr. Carlisle: We ask that be done.

Mr. Hogg: Now, then, may it please your Honor, the other mat-

ter has been quite clearly and comprehensively stated by my associate counsel who preceded me, and so far as I am concerned I have nothing further to present to the Master. I had hoped to conclude what I had to say in a much shorter space of time than the period I have occupied.

MR. HOGG'S NOTES OF ARGUMENT.

Mr. Hogg's notes of argument, covered in part by the foregoing report of proceedings are as follows:

The decree of reference in this cause, entered May 4, 1908, requires seven distinct matters to be ascertained and reported to the court; the first of which is:

“The amount of the public debt of the Commonwealth of Virginia on the first day of January, 1861, stating specifically how and in what form the same was evidenced, by what authority of law and for what purposes the same was created, and the dates and nature of the bonds or other evidence of such indebtedness.”

To properly make a report with reference to this clause of the decree, it is necessary to determine the date of the first item entering into the creation of this indebtedness. It will be perceived that the parties have agreed that the date of the first item of indebtedness is March 19, 1823, as disclosed by the record, page 334, from which we take the following: (July 1, 1909.)

“The Special Master: Have you any schedule that has been agreed upon by the accountants on both sides? In the first place, has there been any change in attitude with reference to the date?

“Mr. Harrison: Virginia starts from the same date that West Virginia starts from.

“The Special Master: Enter upon the record that Virginia agrees with West Virginia upon the date when the accountants should begin, which date is—

“Mr. Anderson: March 17, 1823.

“The Special Master: March 17, 1823. Is that correct?

“Mr. Dixey: March 19, it should be.

“Mr. Carlisle: I still understand that the accountant on the other side included in his statement that item of \$65,000.00, which we say is shown to have been a debt before that date.

“The Special Master: Let me make this statement. If these accountants begin on March 19, 1823, and that date is agreed upon by counsel on each side, the Master will not consider any items prior to that date. Now, then, with that statement from the Master, am I to understand that the counsel for Virginia and West Virginia agree that that is the date when the accounts begin?

“Mr. Carlisle: That is correct.

“Mr. Harrison: Yes, sir.

“The Special Master: That settles that.”

We thus perceive that on July 1, 1909, the parties agreed and entered of record the date at which the accounts begin in this suit; that is, the time at which the public debt began to be created was March 19, 1823. From this date all our investigations must begin.

The bill does not purport to state the exact amount of the indebtedness of Virginia as of January 1, 1861, but only approximately, alleging that on the first of January, 1861, “plaintiff was indebted in about the sum of \$33,000,000,” which the defendant in her answer says she believes is true. According to the evidence of the defendant, the exact amount of this debt was \$32,919,863.93, to which we concede is to be added \$977,209.89, accrued interest from July 1, 1860, to December 31, 1860.

According to plaintiff’s and defendant’s Joint Exhibit A-1 (record page 215), the plaintiff contends that the aggregate indebtedness as of January 1, 1861, was \$36,534,056.09, there being a difference in the amount of the public debt, as contended for by the respective parties, of \$3,614,192.16. This difference arises from and is composed of the holdings by the Sinking Fund, with its accrued and unpaid interest, amounting to \$1,369,243.92, the holdings by the Board of Public Works, with its accrued interest, amounting to \$150,895.00; and the holdings by the Literary Fund, with its accrued interest, amounting to \$1,116,843.35. It will be observed that another item composing this difference as to the amount of the public debt is the accrued and unpaid interest on that part of the

debt "held by Individuals, Firms, Corporations and other," amounting in the aggregate to \$977,209.89.

It seems to us that it must be admitted that accrued and unpaid interest on the public debt prior to January 1, 1861, is a part of the principal, and must therefore be treated as part of the public debt, which, added to the \$32,919,863.93, would show the aggregate amount of the public debt as of January 1, 1861, to be \$33,897,073.82, thus making a difference in the contention of the parties as to the true amount of the public debt of \$2,639,982.29.

The only difference between the parties as to what constitutes the public debt, therefore, is whether the amounts held by the Sinking Fund, the Board of Public Works, and the Literary Fund, with the accrued and unpaid interest thereon from July 1, 1860, to December 31, 1860, shall be treated as a part of the public debt of Virginia, within the meaning of section 9 of the Ordinance of 1861, passed August 20, 1861, appearing at pages 119-122 of the "Appendix to the Record", and of section 8 of article 8 of the Constitution of West Virginia, appearing at pages 124 and 125 of the "Appendix to the Record". The language of the Ordinance is: "The new State shall take upon itself a just proportion of the public debt of the Commonwealth of Virginia prior to the first day of January, 1861"; (Appendix to Record, page 122) while the language of the Constitution is "An equitable proportion of the public debt of the Commonwealth of Virginia, prior to the first day of January, one thousand eight hundred and sixty-one, shall be assumed by this State" ("Appendix to the Record," page 125). This evidently contemplated, and could only contemplate, an existing unpaid liability on the part of Virginia in the form of an indebtedness owing by her to some person in a situation to make proper demand upon her for the payment of a liability properly incurred by her. It did not refer to any part of the debt which she had already liquidated, nor to a debt which she had not contracted by the sale of her bonds or securities. Inasmuch as there is no evidence whatever that any of the bonds or securities issued by the Commonwealth of Virginia and lodged in the Literary and Sinking Funds and with the Board of Public Works were ever negotiated to third parties, it is self-evident that they were still in the possession of the Commonwealth of Virginia on January 1, 1861, and that no debt was created against her by virtue of any of these bonds or securities.

To become a debt there must have been a sale of these bonds to

some person other than the State of Virginia or any of her fiscal agents; that is, they would have to be held by some person in a position to assert the demand called for by them as a debt owing to such person by the State of Virginia. For this reason, they were properly not embodied in the defendant's itemized statement of the public debt of Virginia as constituting any part of said debt.

Inasmuch as the date of the commencement of this debt has been agreed to by both parties as March 19, 1823, the aggregate of this indebtedness, as shown by defendant's exhibit A, must necessarily be correct, since there is no disagreement between the two States with reference to this indebtedness except as created by and including the amounts held by the Literary and Sinking Funds and Board of Public Works in the one statement and the exclusion of them in the other.

The Literary and Sinking Funds were created as State agencies of the Commonwealth of Virginia for specific purposes, as shown by her own acts of legislation, copies of which appear in the "Appendix to the Record" at pages 196-208; and the same is true as to the Board of Public Works. The money or bonds held by the commissioners of such funds and said board is the money or bonds held by the State. Therefore, the State can not be said to be in debt, when the moneys or bonds with reference to which the indebtedness is alleged to exist really belong to the State itself.

"A debt is an obligation due from one person to another, payment of which the latter has a legal right to enforce."

Rowe v. Marchant, 86 Va., 187, 8 S. E. 995, opinion of the court.

A man can not be said to be in debt to himself; and the same principle governs with reference to a State. The very converse of this proposition is asserted by Virginia when she treats the bonds in the custody of the Commissioners of the Literary and Sinking Funds and Board of Public Works as a part of her public debt existing on January 1, 1861.

Harris v. Larsen, 24 Utah, 139, 141, 66 Pac. 782.

"A 'debt' as defined by Webster, is 'that which is due from one person to another, whether money, goods, or services; that which one person is bound to pay to another, or to perform for

his benefit; that of which payment is liable to be exacted; due; obligation; liability'. Anderson's Law Dictionary defines 'debt' as follows: 'In its most general sense, that which is due from one person to another, whether money, goods or services; that which one is bound to pay or to perform for another.' *Newell v. People*, 7 N. Y., 124; *Kimpton v. Bronson*, 45 Barb. 625. Bouvier's Law Dictionary defines 'debt' to mean all that is due a man under any form of obligation or promise. *City of Erie's Appeal*, 91 Pa. 402."

In *Anthony v. Savage*, 3 Utah, 277, 280, 3 Pac. 546, the court held that a "debt is a sum of money due from one person or party to another."

The courts universally agree in holding that a debt is an obligation founded upon contract due from one person to another.

Spillman v. Parkersburg, 35 W. Va., 605, 614, 14 S. E. 282.

Whiteacre v. Rector, 29 Grat., 715, 26 Am. Rep. 420.

Hinchman v. Morris, 29 W. Va., 673, 2 S. E. 870.

Dellinger v. Tweed, 66 N. C., 206, 213.

Sonnesyn v. Akin, (N. D. 1903) 97 N. W., 557, 562.

U. S. v. Colt, 25 Fed. Cas. No. 14, 839, Pet. C. C. 145.

Cole v. Anne, 40 Minn., 80, 81, 41 N. W. 934.

U. S. Rolling Stock Co. v. Clark, 95 Ala., 322, 323, 10 So. 917.

Perry v. Washburn, 20 Cal. 318, 350.

Rhodes v. O'Farrell, 2 Nev., 60, 61.

Rodman v. Munson, 13 Barb., 63, 77.

Harris v. Larsen, 24 Utah, 139, 141, 66 Pac. 782.

An examination of all the authorities bearing on the subject shows that a debt contemplates a liability existing independently of the debtor, over which he can not exercise any control, based upon contract which he has actually entered into, either express or implied, and which the third party holding the debt has the legal right to enforce. Upon principle, therefore, as well as authority, the possession of the certificates by the commissioners of the Sinking and Literary Funds and the Board of Public Works contains no element constituting an indebtedness against the State of Virginia as to the certificates so held, and therefore can not be treated as a part of the public debt of Virginia. There could be no contract

made by the State of Virginia with her own commissioners and her own Board of Public Works, created by her own acts of legislation as fiscal agents for her own purposes, so as to create a debt. Her commissioners are mere passive instruments in her own hands to effect her own independent purposes, and it was their statutory duty to execute the mandates of their principal, the State of Virginia. They had no power to negotiate for these bonds, except by the consent of Virginia, and that for her own purposes.

Upon the principles here stated, the public debt of Virginia on the first day of January, 1861, amounted to \$32,919,863.93, to which must be added, as we have said, the accrued and unpaid interest from July 1, 1860, to December 31, 1860, amounting to \$977,209.89, which makes the entire debt, principal and unpaid interest, as of January 1, 1861, \$33,897,073.82.

The second clause of the decree requires the Master to ascertain and report

“The extent and assessed valuation of the territory of Virginia and West Virginia June 20, 1863, and the population thereof with and without slaves separately.”

This part of the requirement of the decree appears in the printed record at page 347, and is also contained in Plaintiff's and Defendant's Joint Exhibit B-1. The population here given is in accordance with the terms of the decree, showing the same with and without slaves.

There can be no controversy as to this clause of the decree because the area of the territory of the two States has been officially determined, and it is to these official sources that reference was made for the investigation by the experts of the respective parties to this controversy. The population as ascertained by the investigation, as well as the area and valuation as shown by the Plaintiff's and Defendant's Joint Exhibit B-1, are agreed to and all controversy with reference to this clause of the decree has been reconciled.

For convenience of the Master, we here state that the total land area of the two States in square miles is as follows:

Virginia	42,627=63.8157%
West Virginia	24,170=36.1843%
Total	66,797=100%

The assessed valuation of the real estate of the two States is as follows:

Virginia	\$296,085,460.31=78.2188%
West Virginia	82,449,252.04=21.7812%
Total	\$378,534,712.35=100%

The population of the two States estimated is as follows:

With Slaves—

Virginia	1,212,319=75.4855%
West Virginia	396,633=24.5145%
Total	1,617,952=100%

Without Slaves—

Virginia	748,171=66.4769%
West Virginia	377,289=33.5231%
Total	1,125,460=100%

These statements as given above are taken from the Plaintiff's and Defendant's Joint Exhibit B-1, and are certified to as correct by the accountants on the part of the plaintiff and defendant, and the exhibit appears at page 347 of the record.

The third clause of the decree requires the Master to report

“All expenditures made by the Commonwealth of Virginia within the territory now constituting the State of West Virginia since any part of the debt was contracted.”

On page 371 of the printed record appears joint exhibit C-1, giving a summary of the amounts of money expended within the territory now constituting West Virginia, containing statements with reference to the different items composing the groups of expenditures therein appearing, and, so far as amounts and aggregates are concerned, these are agreed to as correct. The difference between the parties under this paragraph of the decree is as to what constitutes *expenditures* within the meaning of the decree of reference. It will be observed that there are two classes of expenditures,

divided into two groups. These two groups aggregate \$5,639,286.67, of which sum \$1,251,288.92 is conceded to be correct, while the balance, \$4,388,013.74, it is contended by West Virginia does not *constitute expenditure* within the meaning of the decree.

Plaintiff's and defendant's Joint Exhibit C-1, shows the respective contentions of the parties, which can only be reconciled by construing clause three of the decree as to the meaning of the word "expenditures." It seems to us that, in the light of what is contained in the Ordinance adopted by the Restored Government of Virginia in August, 1861, and that which appears in the act of the same government passed February, 3, 1863, there ought not to be much difficulty in determining what the court had in mind by the use of the word "expenditures" and what is intended by that clause of the decree.

The Ordinance prescribes the method by which West Virginia's portion of the public indebtedness of the old State shall be ascertained. Section 9 of the Ordinance declares that the new State shall take upon itself a just proportion of the public debt, to "be ascertained by charging to it all State expenditures within the limits thereof," etc. What did the State of Virginia mean by the use of this clause of section 9 inserted in her own Ordinance?

Evidently she contemplated money *directly* expended by the *State* of Virginia, *thereby contemplating an expenditure directly within the territory, made by Virginia* on her own account and under her supervision and control, because she used the words "State expenditures" in the Ordinance. This Ordinance did not contemplate an expenditure made by Virginia in the purchase of stock in corporations operating within the territory of Virginia, in which corporations Virginia often took considerable stock, because the money went into the possession and control of the corporation operating under its charter, and Virginia received stock in return for the money paid to the corporation, and for all these various sums of money so paid out by Virginia in the purchase of stock in these companies Virginia received what she supposed to be an equivalent value in stock. In 1863 Virginia still owned these stocks, and, by virtue of an act passed on February 3rd of that year, these stocks were transferred to and became the property of West Virginia as soon as she should become an independent State capable of receiving and holding property.

It will be perceived, therefore, that Virginia did not in her ordin-

ance treat her purchases of stock as "expenditures" within the meaning of her ordinance, else she would not have included them in her act of February 3, 1863, as to do so would be to require West Virginia to pay twice for such stock; first, in charging them to her as an *expenditure* on the basis of settlement; and, secondly, to pay for them under and by virtue of the act as an independent purchase made by her in her own capacity after reaching statehood and to be determined upon the basis of their value at the time of their transfer. Therefore, the principle upon which charges for expenditures are to be made within the meaning of clause three of the decree is quite apparent, and contemplates direct expenditures of money for which there was no equivalent return to the State except in the improvement itself and which alone stood for and represented the expenditures. In view of this, Virginia's contention that the outlay of money for stocks constitutes an "expenditure" cannot be accepted and is contrary to the spirit, and, we may say, language of this clause of the decree, as what Virginia expended for stocks is to be considered under clause seven of the decree instead of clause three.

Determined upon the principle here stated, the expenditures made in Virginia as contemplated by the Ordinance upon which paragraph three of the decree is predicated amounts to \$1,251,288.92.

In further support of our contention that the word "expenditures" included direct expenditures made by the State of Virginia, it will not be overlooked that the Ordinance was adopted by the State of Virginia in 1861, that the proposed new State adopted her constitution in 1862, and in the same year the Commonwealth of Virginia gave her consent by an act of her legislature to the formation of the new State; and this constitution was evidently adopted in the light of the provisions of the Ordinance of 1861, providing for the method of ascertaining the just proportion of the public debt of Virginia which the new State should assume, and which she obligates herself to assume in her own constitution. After all this had taken place, the Commonwealth of Virginia then passed the act of February, 1863, whereby she provides for a transfer of stocks in any company or corporation the principal office or place of business whereof is located within the boundaries of the new State. And this act of February, 1863, further provides that the stocks and credits provided for in said act shall be duly accounted for by the

State of West Virginia in the settlement thereafter to be made with the old State.

It will therefore be perceived that by the Ordinance of 1861 West Virginia was to settle with the old State for the just proportion of the public debt thereof to be borne by the new State and to be determined in the manner provided in said Ordinance, and she was also to account to Virginia for the stocks and other property mentioned in said act in the settlement with Virginia touching the public debt. It is thus clearly shown that Virginia has two matters to settle with the proposed new State, one of them being with reference to West Virginia's part of the public debt, and the other the payment for the stocks and other property embodied in the act of 1863. Here we have two demands on the part of Virginia. One, West Virginia's share of the public debt; the other, for the property transferred to West Virginia.

The two demands cannot be blended, but must be kept separate and distinct, showing a separate and distinct liability, if any exists. This suit was brought to ascertain West Virginia's just proportion of the public debt, and is a suit for the benefit of the holders of what Virginia claims is West Virginia's part of the public debt, which is to be paid over to the holders of this part of the debt; and, in the opinion of the Supreme Court, the object of this suit, using the language of the Court, "cannot properly be regarded as seeking in chief anything more than a decree for 'an equitable proportion of the public debt of the Commonwealth of Virginia on the first day of January, 1861.' " This suit, therefore, as the bill is construed by the Court, in the decision by it holding that it has jurisdiction of the case, has been brought for the sole purpose of ascertaining West Virginia's share of the public debt of the Commonwealth of Virginia existing prior to January 1, 1861.

It is therefore inconceivable how anything can arise for consideration as expenditures under clause three of the decree of reference, except such expenditures as have been made by Virginia in making public improvements within the territory of the present State of West Virginia. This construction of the word "expenditures" is re-enforced when we consider the purpose of that clause of the Ordinance providing that West Virginia shall be charged with all expenditures made within her territory, as this clause evidently refers to moneys paid out directly by the State of Virginia in the construction of public improvements on her own

account, and which would enure directly to the benefit of the proposed new State, and, as she was to receive the benefit thereof within her own territorial limits, it would be just that she should be charged with the amounts of money expended by the Commonwealth expressly for that purpose. If this be not true, then the act of February 3rd, as we have already said, would be entirely unnecessary in providing for the settlement of stocks and other property, and clause seven of the decree would subserve no practical purpose so far as a reference of this case to a Master is concerned.

We therefore insist that the aggregate amount of "expenditures," as contemplated by the decree of reference, made by the Commonwealth of Virginia within the territorial limits of the State of West Virginia, is \$1,251,288.92.

That the word "*expenditures*," used in the third clause of the decree, means *direct expenditures*, as contra-distinguished from stock subscriptions by the Commonwealth of Virginia to companies organized for purposes of internal improvement, attention is called to the act of February 5, 1816, creating a fund for internal improvement, appearing in the "Appendix to the Record" at page 3, authorizing the president and directors of the Board of Public Works to subscribe for the stock of such companies. No subscriptions could be made on behalf of the Commonwealth until at least three-fifths of the whole stock necessary to complete the public work had been subscribed by others than the said Commonwealth, nor then until one-fifth thereof had been paid by others than the said Commonwealth, nor then until one-fifth thereof had been paid or its payment assured by approved security, or a deed of trust given upon the real estate of such subscriber of twice the value of such one-fifth. It also provided that the dividends on the stock held by the Board of Public Works should go exclusively to other subscribers than the Commonwealth, until such portion of the stock of those subscribers, actually paid in, should net them six per cent. per annum from the time of payment, after which all holders of stock should share in the dividends according to their respective interests.

This law stood with this provision in force until March 20, 1828, when so much of section 12 of the act of 1816 was repealed as provided that the dividends on the stock subscribed on behalf of the Commonwealth should go exclusively to other subscribers upon

stock actually paid in and netted to them six per cent. per annum from the specified time of such payment, and all dividends upon subscriptions thereafter authorized, or required to be made by the General Assembly of Virginia, to any canal, road, bridge company or other corporation, should be made, and stand upon the same footing with subscriptions made by individuals. (Appendix to the Record, p. 10).

Thereafter no preference was given to the private stockholders in companies organized for internal improvements over the Commonwealth of Virginia as a holder of stock in such companies. She was by her own act placed upon the same footing as a holder of stock in companies engaged in works of internal improvement as if she were a private person holding such stock.

She became the absolute owner of the stock for which she subscribed and thereafter held, with the right to draw and appropriate the dividends thereon as she might elect or determine. The only difference, however, as to her ownership of stock under the act of 1816 before it was amended by the act of 1828, in the particular already shown, is that under the original act her stock could draw no dividend until the private stock netted a dividend of six per cent. per annum on whatever sum had actually been paid in by the holder of such stock.

While the record does not show the dates of her stock subscriptions to companies organized for works of internal improvement, it is safe to say that very few, if any, were made prior to February 20, 1828, when the original act was amended, placing her as a holder of stock in such companies upon the same plane with private holders thereof.

This was the character of the stock which she held in the various companies when she passed her Ordinance in August, 1861, and when she passed the act of February 3, 1863, transferring her stock in some of these companies to West Virginia, to take effect as soon as the new State was admitted to statehood, that is, the stock in all companies or corporations, the principal office or place of business whereof was located within the boundaries of the proposed new State. West Virginia obtained no other stock from the Commonwealth of Virginia for which she can or could be made to account, and this is the stock which the plaintiff is now attempting to treat as an expenditure made within the present limits of West Virginia, and which the plaintiff insists was an expenditure within the mean-

ing of the Ordinance, and therefore within the purview of clause three of the decree of reference.

These were not expenditures made by Virginia, because the money was paid out by the companies or corporations controlled by a board of directors selected by the stockholders, and three-fifths of the money so expended had already been subscribed by private persons, whose money likewise went into the improvements made by the companies or corporations for the stock of which such private persons had subscribed and paid or secured the payment of such subscriptions. It was not Virginia's money that was expended in the purchase of three-fifths of this stock, but money belonging to private persons, many of whom, no doubt, lived beyond the limits of the Commonwealth. When she did take stock she held it as any other subscriber, and held the same interest in the improvement that any other stockholder could assert, and none other. The only interest she held was that represented by her stock. She could not control the management, but only had a voice in this management, as represented by the extent of her holdings of stock.

But what stocks did she transfer to West Virginia? Only those specified in her own act of February 3, 1863. This act only transfers the stock owned by her in corporations and companies having their principal office or place of business within the boundaries of the new State. She continued to hold all her other stocks, and, for aught that appears in the record of this case, she is still the owner thereof.

There are several items in the schedules filed by Virginia, appearing at pages 373-377, in which are entered charges against West Virginia under clause three of the decree as expenditures made by Virginia, to which the attention of the Master is respectfully directed.

Take the item of the Covington & Ohio Railroad and the Winchester & Potomac Railroad at page 373 of the record, aggregating a total of \$3,057,128.33, of which sum \$1,316,992.42 is charged to West Virginia as "expenditures" within her boundaries on a mileage basis under clause three of the decree of reference. If this ever was a proper charge, which is denied by West Virginia, it ceased to be a proper charge by the mutual and almost concurrent action of the two States which took place in the years 1866, 1867, 1868 and 1870.

The fourth clause of the decree imposes the duty of ascertaining

“Such proportion of the ordinary expenses of the government of Virginia, since any of said debt was contracted, as was property assignable to the counties which were created into the State of West Virginia, on the basis of the average total population of Virginia with and without slaves as shown by the census of the United States;

And also on the basis of the fair estimated valuation of the property, real and personal, by counties of the State of Virginia.”

It will be perceived that the Court requires the Master to ascertain such proportion of the ordinary expenses of the government of Virginia as was properly assignable to West Virginia upon two basis; one of population with and without slaves, and the other the fair estimated valuation of the property real and personal.

The first question arising under this part of the decree is what is to be treated as *ordinary expenses*. These words appear in the Ordinance, and their appearance in the decree is evidently in view of their use by Virginia in framing her own Ordinance, wherein she requires that West Virginia shall be charged with a “Just proportion of the ordinary expenses of the State government, since any part of said debt was contracted.” The principle is elementary, requiring effect to be given to every word used in a writing or document of any kind, if effect can be given to it consistently with the instrument taken as a whole. We are therefore to presume that the framers of this Ordinance used the word “ordinary” in a qualifying sense in applying the word to the expenses of the State government; that is that they intended to charge West Virginia only with what they, the framers of this Ordinance, regarded as *ordinary expenses*. So there must be some kind of expenses of State government on account of which West Virginia was not to be charged. What, then, is meant by the phrase “ordinary expenses of the State government?”

It does not mean every kind of expenses, but only those that are ordinarily expended by a State government. A State government is composed of three co-ordinate branches, and, under the American system of government, it cannot be stripped of either of

these, as in every one of the State governments of this Union there is a constitutional provision creating three co-ordinate branches, the executive, legislative and judicial departments, which are separate and independent of each other, and this provision existed in the constitution of Virginia when she framed her Ordinance of 1861, in section 9, of which she used the term "ordinary expenses." Did she not mean, in the use of this term, those expenses included in carrying on the ordinary operations of each of these branches of the government; that is, all expenditures on account of the administration of justice from her highest to her lowest courts, those included in carrying on executive operations of the government, and those necessarily incurred by her law-making body? Did she mean to include in this term matters of extraordinary occurrence and not at all needful for the healthful or necessary operation of the various departments of her government? Did she not use this term "ordinary" in contradistinction to "extraordinary" expenses? No plainer word could well be used by the framers of the Ordinance, and of course the Court in the draft of its decree, than that of "ordinary." While this word is synonymous with "common," yet it has a different shade of meaning from the word "common." A thing is ordinary when it is apt to come around in the ordinary or regular succession of events. There were ordinary expenses of the State government of Virginia before the creation of any public debt by her. She had ordinary expenses at the time of her formation and under her first constitution. It was something incident to the expenses of her government from the time of its formation, and her ordinary expenses of State government will continue long after she has discharged all of her indebtedness.

It must be conceded that the public debt itself is not an ordinary expense. Such a debt is usually created for a specific purpose, and usually originates with a State or municipality for the promotion of an internal improvement, the costs of which cannot be met by the ordinary revenues arising from taxation. In some jurisdictions the distinction between ordinary and extraordinary expenses of government is made by fiat of the legislature, and is thus made a matter purely arbitrary with the legislative body. It seems to us that, as used in the Ordinance of 1861, it only meant those expenses annually accruing in the administration of the three co-ordinate branches of the government; that is, those expenses met by annual taxation and incurred in carrying out the settled policy of the State

in her system of State government. It seems clear that ordinary expenses did not include the public debt, for this was the very matter which the framers of the Ordinance of 1861 were considering when they embodied in clause nine thereof the mode of its adjustment between the Commonwealth and the proposed new State. It could not have been a part of the ordinary expenses of the government from the very nature of the subject to which clause nine of the Ordinance relates.

If this public debt, then, cannot be treated as part of the ordinary expenses of the State government, we are led to ask what constitutes the public debt that was to be settled as of January 1, 1861? It was evidently the principal obligation incurred by the State of Virginia and the accrued unpaid interest thereon of that date. This debt and its unpaid interest was then an independent extraordinary obligation incurred by the State.

This obligation continued to exist from the date of its creation, increasing in volume with the lapse of time, and was necessarily made up of two things—principal and interest. Upon the creation of the debt, at the end of the first year there was an obligation subsisting composed of the principal and the accrued interest, and as fast as the interest matured that part of the debt became liquidated and the obligation reduced *pro tanto*, and this process of increasing the debt as well as keeping the obligation in life with its accrued interest continued from time to time until January 1, 1861, the amount in the aggregate then being \$33,897,073.82, as hereinbefore shown.

These two features of the public debt, the principal and the interest, cannot be segregated, and thus classified one as extraordinary expenses and the other as ordinary expenses. This is so for several reasons: First, because if a thing is extraordinary, that which is necessarily its incident must likewise be extraordinary; second, because if a thing is extraordinary, any other or additional expense to which it gives rise must be within its scope and be so treated and considered; third, if the debt itself is an extraordinary expense, the interest, which is always treated as a part of the debt, is necessarily extraordinary. Can it be possible, then, that the framers of the Ordinance, in using the term “ordinary expenses of the State government,” intended thereby to exclude the public debt itself but to include its necessary incidents, one of which is the interest annually accruing thereon? Does not

the fair and reasonable construction of the Ordinance lead to the inevitable conclusion that at the time that part of it relating to the method of settling the public debt was under consideration the whole public debt and all its incidents were entirely independent and apart from any of the terms used in the Ordinance relating to its settlement in order to determine the just and equitable proportion to be borne by West Virginia? Was not the public debt and its incidents one subject and one matter, and the method of its settlement embraced in the Ordinance another and different matter, and is not this what was intended by the framers of the Ordinance, and therefore is not this the true construction of the Ordinance?

Virginia as a State had the use of all these expenditures in the form of public improvements from the time of their construction down to the day of the formation of the new State. She had absolute control of these improvements. The use of them was enuring to the territory of Virginia as a whole. Did not this long continued ownership and use of these improvements represent to her the interest she had paid? And now that Virginia was about to transfer to a new State to be created by her consent, she provides that the expenditures creating them are to be charged to West Virginia, but not the interest on the debt to which these expenditures gave rise, as she herself had the use of them during all the time that the debt had run, from its inception to the formation of the new State, and that therefore the only just charge that she could make against the new State would be of the expenditures which these improvements *made* within the territory represented. Any other view of the Ordinance would make the new State pay for the use of these improvements during all the time they belonged to and were under the control of the State of Virginia as represented by the interest.

Virginia herself treats the interest as a part of the debt itself in Joint Exhibit A-1 at page 215 of the printed record, in which she makes two separate items in the aggregate of interest accruing from July 1, 1860, to December 31, 1860, a part of the aggregate indebtedness of the Commonwealth, of which she contends West Virginia must pay her proportion. These two items claimed by Virginia as constituting a part of the public debt are \$51,930.11 on a principal debt bearing interest at five per cent, and the other in the aggregate \$925,279.78 on a principal bearing interest at six per cent, both of which items make an aggregate of \$977,209.89,

which is a large part of the indebtedness claimed to have been existing on January 1, 1861. These two items of interest claimed by Virginia as constituting a part of the public debt make up, as we have just stated, a large sum of what Virginia claims is the true public debt, on January 1, 1861. She also charges other items of interest, for instance that accruing on the holdings of the Literary and Sinking Funds and that accruing on the bonds held by the Board of Public Works, as shown in Joint Exhibit A-1 at page 215 of the record.

Thus, when Virginia undertakes to show her gross indebtedness as of January 1, 1861, she includes the interest thereon as a part of this debt; but when she undertakes to make out the "ordinary expenses" of her State government she insists that the interest is not a part of the debt, but on the contrary constitutes a part of the ordinary expenses of her government. Can she maintain this incongruity? If the interest is part of the debt for one purpose in stating the account, is it not a part of the debt for all purposes of the account? It seems to us clearly so. The interest charged from July 1, 1860, to December 31, 1860, so far as it has accrued upon that part of the debt held by individuals, firms, corporations and others (not including the Literary and Sinking Funds and Board of Public Works) was a part of her original debt as much so as the principal itself, and as she paid the accruing interest from time to time she was thus *pro tanto* discharging the debt. The conclusion is irresistible then, that the interest is a part of the debt, and cannot be treated now as part of the ordinary expenses of the State government.

This it seems to us is not only so upon reason but upon authority.

"While in a number of cases interest is stated generally to be an incident of the debt, apparently without regard to the distinction between interest as damages and contractual interest, the proper distinction is that where interest is payable by virtue of contract, it is an integral part of the debt, as much so as the principal debt itself."

22 Cyc. 1570, and cases cited.

“Where there has been an express contract to pay interest the sum due therefor is as much an integral part of the debt as is the amount for the use of which the interest is contracted.”

16 Am. & Eng. Enc. L. 1033, and cases cited.

“As interest due by contract and accrued before the maturity of the principal becomes an integral part of the debt, or itself an independent liability, payment of the principal will not *ipso facto* operate to defeat a subsequent demand for interest. There would be no more reason for holding that payment of the original principal extinguished the claim for interest than that part payment of such principal destroyed the right to the remainder.”

16 Am. & Eng. Enc. L. 1033, and many cases there cited.

In *Morley v. Lake Shore & Michigan Southern R. Co.*, 146 U. S. 162, 169, the Court, in its opinion delivered by Mr. Justice Shiras, says:

“Interest upon a principal sum may be stipulated for in the contract itself either to run from the date of the contract until it matures or until payment is made; and its payment in such a case is as much a part of the obligation of contract as the principal, and equally within the protection of the Constitution.”

Where, in an action on a bill, the defendant pleaded an agreement with the plaintiff that the latter would relinquish all claim to the interest which had accrued on the principal sum due, in consideration of the payment of the principal sum in full satisfaction of payment of the principal, it was held that there was not defense by way of accord and satisfaction, as the interest was as much a part of the debt as the principal, and consequently the promise was without consideration.

Emmetsburg R. Co. v Donaghue, 67 Md. 383, 10 Atl. 33, following *Jones v. Ricketts*, 7 Md. 116; 110 U. S. 174-176; 160 Mass. 279; 139 U. S. 694-701; 117 Ga. 264, Syl, 5, 271; 114 Ga. 467, Syl, 15, 473, 474, 475.

While Virginia was paying off the interest from time to time after the commencement of the creation of her debt, she was all the while discharging her debt, and not at the same time paying out money as a part of the ordinary expenses of her government. She was simply discharging her obligations to creditors which she had created, and nothing more. It seems to us to involve a contradiction of terms if we say that when she was paying off the interest of her debt, and thereby discharging her debt *pro tanto*, she was at the same time defraying the ordinary expenses of her State government. She was only discharging a liability. Expenses of a State government are not liabilities of a State within any meaning of that term. Suppose Virginia on January 1, 1861, had been in arrears in the payment of the interest on the debt to the extent of ten years instead of six months, would the interest paid prior to the last ten years be treated as ordinary expenses of the government, and the interest that had accrued and was unpaid during the last ten years be a part of the public debt? Certainly not. It was a public debt in every respect, although in part it had assumed the form of interest. And, as we have just seen, Virginia so treated it in stating the present account, by adding the accrued and unpaid interest for the six months immediately prior to January 1, 1861, to the principal, thus treating the accrued and unpaid interest as actually a part of her debt.

Virginia, by her own act embodied in her Constitution of 1851, provided:

“There shall be set apart annually, from the accruing revenues, a sum equal to seven per cent. of the State debt existing on the first day of January in the year eighteen hundred and fifty-two. The fund thus set apart shall be called the Sinking Fund, and shall be applied to the payment of the interest of the State debt, and the principal of such part as may be redeemable. If no part be redeemable then the residue of the Sinking Fund, after the payment of such interest, shall be invested in the bonds or certificates of debt of this Commonwealth, or of the United States, or of some of the States of this Union and applied to the payment of the State debt as it shall become redeemable. Whenever, after the first day of January, a debt shall be contracted by the Commonwealth, there shall be set apart in like manner, annually,

for thirty-four years, a sum exceeding by one per cent. the aggregate amount of the annual interest agreed to be paid thereon at the time of its contraction; which sum shall be part of the Sinking Fund and shall be applied in the manner before directed. The General Assembly shall not otherwise appropriate any part of the Sinking Fund or its accrued interest, except in time of war, insurrection or invasion."

Const. Va. 1851. Art. IV, Section 29.

It will thus be perceived that Virginia regarded the interest on her public debt not as a part of the expenses of her government, for the reason that she sets apart by her own constitution an annual sum to be applied to the payment of the interest of the State debt and the principal of such part as may be redeemable. Thus she treats the State debt as composed of two things by her own Constitution; the interest as one of them, and the principal as the other. She has made this extraordinary provision to secure the payment of the interest and principal of her public debt. Seven per cent. of the accruing revenues of the government are to be used for this purpose and for no other purpose. This fund cannot be applied to the expenses of her State government. She has not made provision like this for the expense of her State government. These matters are of ordinary occurrence, the payment of which is to be provided for by the ordinary revenue derived from taxation, after deducting the seven per cent. belonging to the Sinking Fund. The fund thus created must necessarily be kept separate and apart from the funds available for the ordinary expenses of her State government. Can it be that when she provided for this Sinking Fund by her organic law, requiring it to be kept inviolate, she designed to treat the interest of this debt as an ordinary expense of her State government? It was not to be paid out of funds available for the ordinary expenses of State government. She adopted a different method for its payment from that authorized to meet the ordinary expenses of her government. She kept the fund available for the payment of the interest separate and apart from that to be used for the ordinary expenses of State government. Why this distinction between interest on the public debt and the expenses of the State government, if they are to be regarded as one and the same thing? Why did she not let the interest take care of itself with reference to the revenues of her State government, if she

designed to treat it as a part of her ordinary expenses? The fact is, she did not regard it as a part of the ordinary expenses of her State government, but regarded the interest as a part of her public debt, and therefore provided for its payment accordingly.

Now when she framed her Ordinance in her convention in August, 1861, and used the term "ordinary expenses" in section 9 of this Ordinance, she was acting under her Constitution adopted in 1851, whereby she did not treat the interest on her public debt as a part of her ordinary expenses. She had drawn a marked distinction between this interest and the ordinary expenses of her State government by virtue of this very Constitution. Can it be that, with this distinction before her, she meant to include the interest on her public debt as a part of the ordinary expenses of her government? To ask this question is necessarily to answer it in the negative. Therefore the conclusion must follow that in making up the account under this clause of the decree the interest which Virginia paid on her public debt was simply a payment of a part of her public debt, and cannot be treated as a part of the ordinary expenses of her government.

Arriving at the conclusion based upon the principles hereinbefore announced and considered, what were the ordinary expenses of the State government of Virginia from March 19, 1823, to January 1, 1861? On these principles, the problem is easily and properly solved. We eliminate the sum of \$18,574,747.84 for interest, and the other items claimed by Virginia in Joint Exhibit D-1 at page 515 of the printed record, amounting in all to \$19,586,526.89, and deducting this sum from \$37,794,211.18, claimed by Virginia to be her ordinary expenses of government during the period covered by the accountant, in which she had included all the items appearing in Joint Exhibit D-1, there remains a balance of \$18,207,684.29, which represents the ordinary expenses of the State government of Virginia from March 19, 1823, to January 1, 1861.

Now, having obtained the gross ordinary expenses, the part West Virginia should bear, based on population with and without slaves and upon property valuation, is readily determined.

REAL PROPERTY.

The assessed valuation of the real estate by counties aggregates, in the State of Virginia \$296,085,460.31, and in West Virginia

\$82,449,252.04. This appears on page 639 of the printed record and is certified as correct. This is the assessed valuation according to the records of the State of Virginia, and the decree as amended requires the Master to report on the fair estimated valuation of the real property, and the statement contained in plaintiff's and defendant's Joint Exhibit E-1, page 639, was obtained from the latest obtainable assessment rolls prior to June 20, 1863. It seems to us that a lower basis than that assessed for taxation ought not to be accepted as the fair estimated valuation of real property. It is a matter of common knowledge that property is rarely assessed to the extent of its full value, and it is a matter of further common knowledge that it usually sells in the market for more than its assessed valuation. The exceptions are rare wherein property will not bring more than the amount at which it is assessed for taxation.

The legislature of Virginia in March, 1862, and again in March 1863, passed acts retaining unchanged the valuation of real estate as fixed by the last preceding assessment thereof made in 1856 under the acts of 1855 and 1856. See "Appendix to the Record" at pages 133, 134. Why were these acts passed preserving unchanged the valuation of the real estate of Virginia if the former valuation made in 1856 were not the "fair estimated valuation" of such property at the time of the passage of these acts?

These acts ought to be taken as evidence of the very highest character as to the "fair estimated valuation" of the real estate of Virginia on March 28, 1863. This act embodies the judgment at the time of its enactment of the intelligent representatives of all her people as to the value of the real estate of the Commonwealth. The previous valuation, which was still retained in 1863, was made by sworn officers of the law appointed for the purpose, and it is the consensus of all the people of the Commonwealth in the last days of March, 1863, that this valuation was then undiminished and was at least as great as it was in 1856.

When the valuation depended to any extent upon the buildings erected upon the land, their loss or destruction was to be considered in fixing the valuation, which was left to the local assessors to ascertain and determine. These local assessors were known as "commissioners of the revenue," and were charged with the annual assessment of the valuation of all personal property for the purpose of taxation.

But how were these commissioners to determine the valuation of the buildings that had been destroyed? The act itself of 1863 declares how this shall be done, and as to this matter the act referred to provides as follows:

“The commissioner shall deduct from the amount of which such property stands assessed at its last assessment, such sum as is equal to a fair estimate of the permanent diminution in the value thereof, caused by the invasion of such country, and of the permanent injury and damage upon such property by military occupation thereof, and the waste and violence incident to war. In making which estimate, he shall appraise and fix the amount of such permanent diminution, injury and damage, according to what would have been the standard and rate of valuation thereof, if such permanent diminution, injury and damage had been estimated during the year eighteen hundred and fifty-six; and the remainder left, after deducting the diminution, damage and injury thus estimated, shall be the valuation at which such property shall be assessed by the commissioner.”

See “Appendix to the Record.” p. 134.

Can there be any question, in view of these facts, that the assessed valuation of the real estate for the purpose of taxation was the “fair estimated valuation” thereof in the year 1863? It seems to us that this ought to be conclusive as to the matter of the valuation of real estate of the Commonwealth, and that the amounts appearing in Plaintiff’s and Defendant’s Joint Exhibit E-1 ought to be accepted as the “fair estimated valuation” of the real estate of the respective parties.

It will be remembered that the land was valued for the purpose of taxation throughout the State under an act providing for that purpose in the year 1856, and the valuation then put upon this land was to be expressly retained by an act of the legislature passed in March, 1862, and by another act this same valuation was recognized as just and proper for the purpose of taxation on March 28, 1863.

Under this last act, authorizing the commissioners of the revenue in each county to make deductions for the permanent diminution of the value of real estate by reason of loss of buildings and im-

provements, they were to fix the amount of such permanent diminution with reference to the standard and rate of valuation thereof as if such permanent diminution had occurred during 1856, thereby clearly evincing the judgment of the people of Virginia that these improvements were worth as much and no more in 1863 as in 1856. Is not the conclusion, therefore, a just one that the assessed valuation of this real estate on June 20, 1863, as made in 1856, seven years prior thereto, was the "fair estimated valuation" of such real estate as of June 20, 1863? It seems clearly so to us, because had the value diminished the Act of 1862 and of 1863 would have taken notice of this fact and provided for it accordingly.

PERSONAL PROPERTY.

According to Plaintiff's and Defendant's Joint Exhibit E-1, page 639 of the printed record, the assessed valuation of slaves, as per latest obtainable assessment rolls prior to June 20, 1863, estimated in part, is \$250,355,007.00 in Virginia, and \$5,654,593.00 in West Virginia.

The assessed valuation of personal property other than slaves, as per the same statement on the same page and from the same source, is \$152,649,447.59 in Virginia, and in West Virginia \$24,739,894.21.

Included under the list of personal property is the amount derived from income, on which tax was levied, as shown by the latest obtainable assessment roll prior to June 20, 1863, and was in Virginia \$11,106,345.13 and in West Virginia \$299,257.45.

It will be perceived that this assessment is made as of a date on and prior to June 20, 1863, and represents all of the personal property in the territories of the respective States on the basis of its value for the purpose of taxation. It is also shown that the personal property was annually assessed by officers duly chosen and qualified for the purpose. It is a matter also of common knowledge that local assessors of personal property for the purpose of taxation usually consult the owners touching its value, taking statements from such owners relating to the value of their property upon which they are to be assessed for taxation, and in most instances these statements are under the sanctions of an oath administered by an officer authorized to make and return the assessment. Can there be found any better method of fixing the

valuation—that is, in the language of the decree, the “fair estimated valuation”—than that afforded by the actual assessment of the property for the public purpose of taxation?

The personal property of Virginia was assessed for taxation in the year 1863 by commissioners of the revenue, provided for in chapter 35 of the Code of Virginia of 1860, in many of the counties of the State there being not less than three of these commissioners and in other counties not less than one. It was their duty under the law, as shown by section 61 of said chapter 35 to begin annually on the first day of February in each year, and ascertain all persons and property in the district on that day subject to taxation. It was further made the duty of the commissioner, by the same section, to call upon every person in his district and obtain from such person a list of property, moneys, credits or other subjects of taxation and the value thereof, or of the persons in respect to which he was chargeable with county levies for such list. It was the duty of the commissioner to ascertain and assess the value of all the property other than slaves, and this list was to be made out with reference to the first day of February. It was made the duty, by this chapter, of the person liable to taxation to furnish a list on the blanks supplied to him by the proper officer for the purpose of enabling the commissioner to make a fair valuation of the property in such list for taxation. That part of the statute relating to this matter was as follows:

“If any person shall refuse to exhibit to the commissioner any property listed or required by this act to be listed by him, in order that a fair valuation thereof may be assessed, he shall pay a fine of not less than twenty nor more than one hundred dollars. Any person failing to comply with the section shall be noted at the end of the commissioner’s property book, or be otherwise specially reported by the Commissioner to the auditor of public accounts.”

Code of Virginia, 1860, Ch. 35, Section 68.

This law further provides that

“from the list procured as aforesaid, the commissioner from each district shall make accurate statements in the form to be prescribed by the auditor of public accounts, which shall truly

and distinctly set forth: The number of white male inhabitants who have attained the age of twenty-one years, except those exempted from taxation on account of bodily infirmity. The number of free male persons above the age of sixteen years. The number of male free negroes above the age of twenty-one years, except those exempted from taxation on account of bodily infirmity. The number of slaves who have attained the age of twelve years. The number of horses, mules, asses and jennets, and the value thereof. The number of cattle, and the value thereof. The number of sheep, and the value thereof. The number of hogs, and the value thereof. The aggregate value of all household and kitchen furniture. The number of pleasure carriages, stage coaches, Jersey wagons, carryalls, gigs, buggies, and vehicles of like kind, and the value thereof, not including those manufactured in this State for sale. The number of watches, and the value thereof. The number of clocks, and the value thereof, whether in use or not. The number of piano fortes and harps, and the value thereof. All gold and silver plate, plated ware and jewelry, and the value thereof, not including any watches, clocks, piano fortes, harps, gold or silver plate, plated ware or jewelry kept in any shop or factory for sale, and is the subject of a license tax. The aggregate amount of all moneys, solvent bonds, contracts for money or other thing, securities and liquidated claims. The amount of interest or profit from public bonds or certificates of debt of this or any other State, or companies incorporated by this or any other State. The amount of incomes other than that derived from the practice of a physician, surgeon, dentist or attorney at law, included in their license. The yearly rent or value of toll bridges and ferries. The capital of all incorporated joint stock companies (other than banks of circulation and internal improvement companies), and of all insurance companies and savings institutions which declare no dividends of profits. The amounts of dividends declared by such insurance companies and savings institutions that declare dividends. The capital invested in any manufacturing or mining business or invested or employed in any trade or business for which no license is required. The amount of all fees of office. The amount of moneys, bonds, contracts or other evidences of debt under the control of any court, receiver, or com-

missioner. The aggregate value of the personal property and the amount of moneys, bonds and claims of internal improvement companies, other than the equipments of a railroad company, which pays a tax on the passengers transported over the same. All other articles of personal property not described in the enumerations contained in this section, nor exempted by this act, shall be set forth in a separate and distinct column, together with the value thereof."

The Code of Virginia of 1860 contains all laws of a general nature in force in that State on March 19, 1860, and in this Code is found the law prescribing the method of assessing all property within the State for the purpose of taxation.

The assessors, as we have seen, were to be furnished a list by each tax-payer containing the items set forth as above, "in order that a fair valuation thereof may be assessed." All personal property was to be assessed on the basis of a "fair valuation," except slaves, the taxation of which is provided for in the Constitution of 1851, which appears in the volume containing the Code of 1860 at page 46. Section 23 of article 4 of said Constitution reads as follows:

"Every slave who has attained the age of twelve years shall be assessed with a tax equal to and not exceeding that assessed on land of the value of \$300. Slaves under that age shall not be subject to taxation; and other taxable property shall be exempted by the vote of a majority of the whole number of members elected to each house of the General Assembly."

It will thus be perceived that the organic law of the State, which was in force in 1863, fixed the value of all slaves at a specific sum, which was to be equal to and not exceeding that assessed on land of the value of \$300.

In 1863, when the personal property of the Commonwealth of Virginia was assessed for taxation, there were more than 160 commissioners of the revenue engaged in that work, charged with the duty of assessing all property at its fair valuation. This was the standard which Virginia had adopted for fixing the value of all property except slaves for taxation; and while the same Code, chapter 103, section 11, declared that all slaves should be deemed personal estate, the organic law had fixed a specific sum as the

value of each slave that had attained the age of twelve years.

When the work of each commissioner of the revenue was completed, and he had made out his book of personal property, there was to be appended to each of the three copies to be by him made out the following oath, which the commissioner was to make and subscribe:

“I, A. B., commissioner of the revenue for the county (or corporation) of ———, do swear that in making out the foregoing list I have, to the best of my knowledge and ability, pursued the laws prescribing the duties of a commissioner of the revenue.”

And the justice before whom the oath was taken was required to annex thereto the following certificate:

“Sworn to before me, C. D., a justice for the county (or corporation) of ———, on the ——— day of ———,”

which certificate was to be subscribed by the justice. The oath at the foot of the copy of the land book was required to contain these additional words:

“That I have faithfully discharged the duties required of me in assessing improvements upon lands, and have made all corrections in said book, as required by law.”

Now, did these commissioners do their duty, when they were required to assess for taxation all personal property except slaves at its “fair valuation?” They were required to make oath that they had done so, and of course they would make oath to such fact. This they did in the year 1863, to have effect as of the first day of February; and it is not likely that any material change in the value of property could have taken place in the short time that elapsed between February 1, 1863, and June 20, 1863. These commissioners, a great many of them were living in the State of Virginia, and could have been called and examined as to whether or not the valuation they placed upon the property was a fair valuation. They were not called upon to state whether they had omitted anything required of them in the discharge of their duties under the law. The presumption of law is that they did their duty as officers of the

State of Virginia, and this presumption must obtain and be accepted by the courts as true until it is removed by competent evidence. There is not one scintilla of proof in this record that these commissioners violated the law by accepting the uncertain and fluctuating value of Confederate currency as the standard for determining the value of personal property in that State in 1863. It matters not how many times the Confederate and Federal armies passed over parts of Virginia, it remains as a fact that the assessed valuation of all personal property as of the first day of February, 1863, was what appears in exhibit E-1 at page 639 of the record. Furthermore, there were only certain localities in the State of Virginia that were subject to the ravages of war, and the greatest of these were committed after June 20, 1863. Prior to that time nearly all of the counties of Virginia were in control of the Confederate forces, whose interest and duty it was to protect the citizens from the destruction of property by the armies of the Confederacy. It is fair to presume that there were no injuries inflicted upon the inhabitants of Virginia or upon their property by the Confederate forces. It was the boast of the gallant Lee, who had command of the Army of Virginia, that they were protecting persons and property wherever found, and we may reasonably believe that this was true.

The evidence taken in this case by the plaintiff, in an attempt to disparage and lessen the valuation of the personal property of the State of Virginia as assessed for taxation in the year 1863, is so vague, indefinite and uncertain that it can hardly be dignified with the name of evidence. It does not affect or in any wise disturb the proposition that the assessed valuation on the basis of its fair valuation shown by the records of Virginia in 1863 is not the "fair estimated valuation" of all her property. As to the valuation of slaves, that was fixed by her organic law in 1851, and never thereafter changed. Indeed, it seems to us that \$300 was a very conservative estimate to be placed upon a slave over 12 years of age. It will also be remembered that Virginia had much property in the form of slaves under that age that was exempt from taxation, and of which no account was taken by the State or her officers in ascertaining the extent and value of her property for the purpose of revenue.

This clause of the decree requires the Master to ascertain and report

“All moneys paid into the treasury of the Commonwealth of Virginia from the counties included within the State of West Virginia during the period prior to the admission of the latter State into the Union.”

This provision of the decree requires the Master necessarily to determine what moneys came into the treasury of the Commonwealth of Virginia from the counties within the present territory of West Virginia. At page 805 of the record there appears Joint Exhibit F-1, showing all moneys paid into the treasury of the Commonwealth of Virginia from the counties included within the State of West Virginia from March 19, 1823, to December 31, 1860, inclusive. This exhibit shows the amounts agreed upon by the plaintiff and defendant as credits to West Virginia under this paragraph of the decree, amounting in the aggregate to \$5,954,395.66, while the total claimed by West Virginia is \$7,051,162.65, there being therefore \$1,096,766.99 claimed as moneys paid into the treasury of the Commonwealth of Virginia, but denied by the plaintiff as coming within the purview of paragraph six of the decree. The items constituting this difference are eleven in number, and appear separately in the exhibit referred to at page 805 of the printed record.

This clause of the decree was evidently inserted to meet the provisions of the Ordinance of 1861, providing for the manner of ascertaining West Virginia's just proportion of the public debt of the State of Virginia. The language of the decree is “all moneys paid into the treasury of the Commonwealth from the counties included within the State of West Virginia.” This evidently means moneys paid into the treasury from all sources whatsoever. It is not restricted to moneys raised by taxation from the inhabitants dwelling within the respective counties within the territory of the new State. Had it been the intention of the framers of the Ordinance, and the Court in framing the decree in the light of the provisions of the Ordinance, to limit the sources from which the money came that was paid into the treasury of the Commonwealth, such intention of limitation would have been evidenced by express words; but there is no limitation as to sources whence the money must come in order that credit may be given therefor to the State of West Virginia. If banks were located in counties in West Virginia from which moneys were paid into the treasury of the Com-

monwealth, would not such moneys come from a county or "counties included within the State of West Virginia?" So if money in the form of dividends came from banks located in counties in West Virginia, were not these dividends "moneys paid * * * from the counties included within the State of West Virginia?" Were not these banks just as much a part of the State's resources for the purposes of revenue, to be used in the administration of government, as were direct levies of taxes upon real and personal property? Was it not the intention that while West Virginia should bear her just proportion of the ordinary expenses of government she should, at the same time, have credit for all revenues in whatsoever form arising that came from the counties within her boundaries that went into the treasury of the Commonwealth of Virginia? Was not that the spirit and purpose of the framers of the Ordinance when they provided therein for this credit for "moneys paid into the treasury of the Commonwealth from the counties included within the said new State?" The framers did not declare therein that moneys derived from taxation paid into the treasury of the Commonwealth from these counties would be credited to West Virginia. No such qualification was made. If none such were made, can a qualification be now engrafted upon this Ordinance by mere construction? This Ordinance was framed by the representatives of the people of the Commonwealth of Virginia, just as representatives would frame the organic law of a State; and the language used in such documents must be given its plain and common meaning. So when they used the term "moneys from the counties," it meant any moneys coming from any of the counties within the territory of the proposed new State. Why was this provision inserted in the decree of reference, if not because of the Ordinance providing for the manner of determining West Virginia's just proportion of this debt?

The decree requires the Master to ascertain and report,

"The amount and value of all money, property, stocks and credits which West Virginia received from the Commonwealth of Virginia, not embraced in any of the preceding items and not including any property, stocks or credits which were obtained or acquired by the Commonwealth after the date of the organization of the Restored Government of Virginia, together with the nature and descriptions thereof."

The Restored Government of Virginia was organized in June, 1861. Any property, stocks or credits acquired by the Commonwealth thereafter are not to be considered by the Master in making up his report under this clause of the decree.

The plaintiff, in her exhibit G-1, has not attempted to show the receipt by West Virginia of anything except \$170,177.46 in money, purporting, according to her exhibit, to have been received in the months of July, 1863, and February, 1864. That West Virginia is chargeable with this sum she denies, as appears from the plaintiff's exhibit G-1. The defendant filed her exhibit G-1, composed of twelve different sheets, beginning at page 820a of the record, which contains the names of all the various corporations organized for internal improvement in the State of Virginia during the period elapsing between March 19, 1823, and January 1, 1861. An examination of this schedule of the defendant as corrected shows that West Virginia is chargeable with the stock held by the Commonwealth in the Northwestern Bank at Wheeling, amounting to \$126,120.00, and the stock held by the Commonwealth of Virginia in the Fairmont Bank in Marion County, amounting to \$50,000.00. This West Virginia admits she received and with which she is therefore chargeable. As to all the other stock, Virginia offered no testimony whatever as to its value, but contents herself with claiming that these various expenditures for stock, as itemized in defendant's exhibit G-1, should be treated as expenditures, and she has so charged them to West Virginia in seeking to make out her part of the case under clause three of the decree.

As we have already seen, these purchases of stock by the Commonwealth of Virginia can not be treated as expenditures, for the very cogent reason that if the Ordinance of 1861 was intended to cover matters of this character as expenditures made in Virginia within the present boundaries of West Virginia, the legislative act of the Commonwealth passed February 3, 1863, so far as it sought to charge West Virginia with stocks, was nugatory and a vain and useless act. But it is not to be presumed that the State of Virginia would pass an act to be afterwards treated by her as of no effect; but, on the contrary, the just inference is that she herself did not treat her purchases of stock as expenditures within the meaning of the Ordinance which she herself had adopted, and that therefore in order to have West Virginia account for these stocks which were transferred to her under the act of February 3, 1863, the enact-

ment of a law for that purpose was considered by the Commonwealth as necessary.

If the Court in this case, upon final hearing of the cause, can consider any matters relating to money, stocks, or credits, which it is not here admitted that it can consider, they must necessarily be placed under clause seven of the decree, as matters to be accounted for by the State of West Virginia under the act of February 3, 1863. It seems to us, therefore, that Virginia, in placing these various items under clause three of the decree in stating her account before the Master, misapprehended the true scope and intent of the Ordinance of 1861, section 9 thereof, as well also as the scope and intent of this decree with reference to clauses three and seven thereof. The Court had clearly indicated by its decree of reference that expenditures can only be accounted for under clause three while money, stocks and credits must be accounted for under clause seven of the decree.

What are we to understand by the use of the word "stocks?" Evidently those holdings of Virginia represented by stock issued by banks doing business in West Virginia and companies of internal improvement. The word "stock," as used in the decree of reference and likewise in the act of February 3, 1863, has the ordinary meaning attached to it, indicating capital of a bank or other company in the form of transferable shares, or property consisting of shares in joint-stock companies; for, as said by the Supreme Court of the United States,

"Certificates of stock are only evidence of ownership of the shares; and the interest represented by the shares is held by the corporation for the benefit of the true owner."

Jellenik v. Huron Copper Min. Co., 177 U. S. 1, 44 L. Ed. 647.

"As a member of a corporation, a government never exercises its sovereignty; it acts merely as a corporator."

Bank of U. S. v. Planters Bank, 9 Wheat. 904, 6 L. Ed. 244.

Briscoe v. Bank of Kentucky, 11 Pet. 257, 9 L. Ed. 709.

The word "stock," as used in the decree, was necessarily intended to cover transferable shares representing at their par

value a certain amount and transferable by the holder. The holder in this case was the Commonwealth of Virginia, and these stocks were transferable by Virginia, and were to be accounted for under the act of February 3, 1863.

The par value of stock in a corporation or joint-stock company is one thing, and the real and marketable value thereof may be and usually is quite another and different thing. It is matter of common knowledge that there are innumerable cases of stock in a corporation that has no value whatever, neither speculative nor actual. Virginia has not attempted in this case to prove the value of any of these stocks. There is no evidence whatever of the value of any of this stock which it is claimed was received by West Virginia, except what is shown by the admission of the defendant with reference to the bank stock. The truth is, Virginia has not attempted to make out any claim against West Virginia because of these matters, but has seen proper to treat them wholly and absolutely as expenditures, not only within the meaning of the Ordinance of 1861, but also under clause three of the decree of reference. If these stocks in banks and other companies are to be treated as expenditures, what property did West Virginia get that can be said to represent stocks here within the meaning of the legislative act of the Commonwealth of Virginia of February 3, 1863, or of clause seven of the decree? The only evidence introduced bearing on the worth or value of these stocks is that taken by the defendant herself, which clearly shows that all the stocks (except the bank stock) at the time West Virginia became one of the States of the Union were without any value—indeed, wholly worthless, as they were not paying any dividends, did not represent property of any available value, and had no speculative value. There is no evidence whatever to show that they were marketable at all, and for the very good reason that the stocks were without value and could not be sold. What inference is to be drawn, if any, from Virginia's entire failure to introduce any evidence relating to the value of these stocks? It is that she was unable to show that they were worth anything on February 3, 1863, or on June 20th of that year. There is no value attached to these stocks by the legislative act whereby they were transferred to West Virginia, but they were only to be accounted for by West Virginia in her settlement with Virginia. If to be accounted for, it was evidently to be at their real value. There could be an accounting on no other basis. West

Virginia has done more than was necessary for her to do by taking the initiatory in her proof offered in the form of depositions that they practically possessed no value. It was for Virginia to make out their value by competent evidence, and she has contented herself, and so expressly stated that she desires to introduce no evidence further than that in the record relating to clause seven of the decree.

IN THE

Supreme Court of the United States

VIRGINIA

v.

WEST VIRGINIA.

**Argument of William A. Anderson, Attorney-General of Virginia, Before
Special Master Charles E. Littlefield.**

NOVEMBER AND DECEMBER, 1909.

Preliminary Statement.

If your Honor please, the duty of presenting the opening argument of the plaintiff in error has devolved upon me. I appreciate the gravity of the case and the responsibility which devolves upon counsel in a cause of so much interest and so much importance.

It may not be amiss, in the opening of my argument, to state the precise interests which I represent and the attitude which I and my client sustain to this cause.

Virginia is here in a dual capacity. In the first place, she is here in her own right. This large debt—an enormous debt, having reference to the resources of the Commonwealth at the time it was contracted—came upon her with added force after the close of a long disastrous war; but notwithstanding her impoverishment she has, down to the present time, paid more than \$37,000,000 in interest, and has retired a considerable amount of the principal of

the original debt, as well as of the two thirds, payment of which she has assumed; and yet some \$25,000,000 of obligations issued by Virginia as she exists to-day are outstanding and unpaid, and the interest upon them is regularly met by the Commonwealth. So that she has paid off and retired, or assumed and issued her own bonds for over \$74,000,000, interest and principal, down to the present year including the bonds which she has redeemed since 1865. While Virginia has made this large contribution to the payment of the principal and interest of the common debt, since the formation of the new State, much of it made at a painful sacrifice from the scant means of an impoverished people, West Virginia has not paid one dollar upon that debt.

There is another fact which it is proper to call to mind in this connection:

The bulk of this large common debt was contracted with the sanction and by the votes of the representatives in the General Assembly of Virginia from the counties now constituting West Virginia, a large part of it was put upon Virginia by the votes of those representatives, over the votes of a majority of the representatives from the territory constituting the Virginia of to-day, and but a small part of that indebtedness would have been contracted had the representatives from West Virginia counties opposed and voted against the acts under which it was created.

These pregnant facts are specifically alleged in the Plaintiff's Bill, and are not denied or questioned in the Defendant's Answer.

See paragraph III of Bill, R. 4, and paragraph III of Defendant's Answer, R. 144.

It is also true that more than seven-eighths of the indebtedness of Virginia at the time of the formation of West Virginia were represented by equivalent sums expended on works of internal improvement, which were either designed, begun and built for the purpose of penetrating and developing West Virginia territory, or are to-day parts of railway systems and lines of communications which serve the territory and people of West Virginia, and afford large regions of that State their best access to the Atlantic Seaboard and to the markets of the world.

The following table shows most of the expenditures made by Virginia prior to June 20, 1863, upon works of the character just indicated:

I. On railroads which constitute parts of the Chesapeake and Ohio Railway:

On the Virginia Central R. R.....	\$ 2,484,134.00
On the Blue Ridge R. R.....	1,744,723.00
On the Covington & Ohio R. R.....	3,206,461.83

Total on Chesapeake & Ohio R. R.....\$ 7,435,318.83

II. On Railroads which now constitute parts of the Norfolk & Western Railway:

On Norfolk & Petersburg R. R..\$	1,341,341.00
On Southside Railroad	1,833,500.00
On Virginia and Tenn. R. R....	3,755,000.00
	\$ 6,929,841.00

On Winchester & Potomac R. R.....\$	270,000.00
On Alexandria, Hampshire & Loudoun R. R...	1,017,248.00
On Marietta & Cincinnati R. R.....	202,611.00

Amount expended on Railroads.....\$15,855,018.83

III. Canals:

On James River & Kanawha Canal	\$10,400,000.00
On Chesapeake & Ohio Canal..	250,000.00
	\$10,650,000.00

IV. Bridges in West Virginia..... 81,412.00

V. On Turnpikes and Roads chiefly in W. Va... 2,849,579.71

VI. On Navigation Companies in West Virginia.. 210,500.00

Total on works built to develop or serving West Virginia.....\$29,646,510.54

For above figures see message of Governor Walker to the General Assembly of Virginia March 8, 1870, Report of West Virginia Debt Commission, May's Compilation, page 474, and Joint Exhibit C-1-R 374, 5, 26; Reports of Auditor of Public Accounts of Virginia 1861, or of 2d Auditor 1872, Journal of House of Delegates of Virginia 1871-2, Document VI.

The above amounts do not include the debt of the Chesapeake & Ohio Canal, guaranteed by Virginia, nor considerable sums expended on roads and turnpikes wholly in what is now Virginia, but which connect with roads or turnpikes lying wholly in West Virginia and constitute lines of travel which serve West Virginia as well as Virginia.

The foregoing statement of facts is made here because they have an important bearing upon the broad equities of the case, and entitle Virginia to fair and just consideration in the application of rules of construction to statutes and instruments, which may be influential in determining the rights and obligations of the parties. They are tremendous facts, and have a mighty bearing upon questions which go to the very right of the cause.

By reason of the payment in full of some millions of principal and interest of the original obligations of the undivided State, the right to claim contribution from West Virginia to the extent of her equitable liability has come to Virginia, and is asserted in her bill.

But Virginia is here also in a fiduciary relation. Though she does not sue as a trustee, the record shows that she is a trustee; that the public creditors of the Commonwealth, confiding in Virginia at the time they accepted the obligations of Virginia for the proportion of the debt assumed by that State, and deposited the portion of the bonds which Virginia had not assumed, and which were not funded with the Commonwealth, upon the assurance that she would use her best endeavor to bring about a settlement with West Virginia.

She holds those bonds to-day, representing the entire debt of the Commonwealth, with the exception of less than one per cent. of the original obligations. It is a most remarkable thing, in view of the great number of the holders of that very large debt, that notwithstanding all the vicissitudes of war, the years of trouble after the war, and the unsettled condition of financial affairs in the Commonwealth, so small a proportion of those obligations should have been lost, that less than one per cent. have not been accounted for and surrendered in exchange for new obligations. She issued her certificates to the creditors who deposited these obligations with her; and when the General Assembly of Virginia passed the acts under which the Virginia Debt Commission acted, and under which this suit was brought, it was provided in that Act that there should be deposited with the Virginia Commission, or placed under the control of the Virginia Commission, at least two-thirds of the cer-

tificates issued by Virginia under the Act of March 30, 1871, under which the greater part of the debt was funded, and a majority of all other certificates. The fact is, as shown in the record, that has been done, and much more than that has been done. In fact, much more than nine-tenths, indeed more than eleven-twelfths, to-day, of all the outstanding certificates are now held by the Virginia Debt Commission, representing the Commonwealth, at whose instance, with the concurrence of the Attorney-General of the State, this suit has been brought.

So that Virginia represents here, first her own claims, amounting to a large sum, and also all of the creditors of the Commonwealth whose claims have been funded—that is, more than 99 per cent. of those who will be entitled to the benefit of any recovery in this suit.

Now I shall proceed as rapidly as possible, and as concisely as I can, if your Honor please, to consider the number of questions which arise in executing the order of reference under which your Honor is acting; and, naturally, I shall consider these questions in the order of the paragraphs of that decree.

Argument.

The decree of reference directs the Special Master to ascertain and report to the Court the seven accounts respectively set forth in the corresponding paragraphs of the decree.

These will be considered in the order in which they occur in the decree.

I.

The first paragraph of the decree directs the Master to ascertain and report to the Court:

“I. The amount of the public debt of the Commonwealth of Virginia on the first day of January, 1861, stating specifically how and in what form the same was evidenced, by what authority of law and for what purposes the same was created, and the dates and nature of the bonds or other evidence of said indebtedness.”

In the view which I take of this branch of the case, and for the purposes of my argument, it will be only necessary to consider the amount of the public debt of the Commonwealth outstanding on the 31st of December, 1860, in the hands of the general public.

Fortunately there is, and can be, no controversy as to the amount of that indebtedness then so outstanding.

That is fixed by the records of the Commonwealth, and is as follows, as appears from "Plaintiff's and Defendant's Joint Exhibit A-1," R. 215.

Aggregate amount of old Virginia debt in the hands of the general public January 1, 1861 :

Amount bearing 6 per cent. interest.....	\$30,842,659.43
Amount bearing 5 per cent. interest.....	2,077,204.50
Interest on 6 per cent. outstanding debt from July 1st to Dec. 31st, 1860.....	925,279.78
Interest on 5 per cent. outstanding debt from July 1st to Dec. 31st, 1860.....	51,930.11

Total outstanding indebtedness.....\$33,897,073.82*

Counsel for West Virginia have not conceded that the interest on the State debt accrued and unpaid prior to January 1, 1861, should be included in the computation of that indebtedness. Both under the language of Section 9 of the Wheeling Ordinance, and of Section 8 of Article 8 of the first Constitution of West Virginia, the provisions of which Constitution constituted conditions upon which the consent of Virginia and of the United States Congress was given to the creation of the new State, that interest unquestionably constituted as much a part of the debt of the Commonwealth as did the principal of that debt.

We have, therefore, \$33,897,073.82 as the amount of the debt of the Commonwealth of Virginia outstanding in the hands of the general public prior to January 1, 1861, of which \$32,919,863.93 was an interest bearing debt, and \$977,209.89 was accrued interest.

*Considerable portions of the indebtedness of the undivided State in the hands of the general public on January 1, 1861, principal and interest, have been paid off, taken up, and retired by Virginia since that date, and the evidences thereof are now held by her in her own right and constitute the basis of her equitable claim to contribution from West Virginia asserted in her bill. (Paragraph XVI of Bill, R. 13.)

While these facts are not material to the present inquiries, they are material to the complainant's case and to her right of recovery.

The authority of law by which, the purposes for which that indebtedness was created, and the dates and nature of the bonds or evidences thereof, are shown by the references and entries upon "Plaintiff's and Defendant's Joint Exhibit A-1," by the copies of the bonds and certificates of indebtedness issued for much the greater part of the State debt, "Plaintiff's Exhibit A-2," R. 219 to 285, by the Abstract of the Statutes in reference to the State debt and to the appropriation of the avails thereof to works of internal improvement, "Plaintiff's General Exhibit 1," R. 900, 988, and by other evidence in the case.

II.

The second direction of the decree requires the ascertainment of—

"2. The extent and assessed valuation of the territory of Virginia and of West Virginia June 20, 1863, and the population thereof, with and without slaves, separately."

The extent of the territory embraced in the two States, the assessed valuation thereof June 20, 1863, and the population thereof, with and without slaves, are shown by the agreed statement thereof, found in "Plaintiff's and Defendant's Joint Exhibition B-1," R. 347.

It is to be remembered, however, that that assessed valuation was determined by the assessment of land made in Virginia in 1856, which was the last general assessment prior to 1863, and that the conditions under which that valuation was made had been revolutionized in 1863, and the values of land reduced greatly below the assessment of 1856, in the portion of Virginia which adhered to the Confederate States. This will more fully appear in connection with the consideration of the accounts directed by paragraph 5 of the decree.

III.

The third account directed by the decree is one ascertaining

"3. All expenditures made by the Commonwealth of Virginia within the territory now constituting the State of West Virginia since any part of the debt was contracted."

This is one of the accounts which is called for under Section 9 of the Wheeling Ordinance, which requires that in order to ascertain the proportion of the debt which the new State shall take upon itself, that State shall be charged with "all State expenditures within the limits thereof * * * since any part of said debt was contracted."

The divergent contentions of the parties are shown by the tabulated statements embodied in "Plaintiff's and Defendant's Joint Exhibit C-1," pp. 1 to 6, R. 371-377.

The total of said State expenditures in the territory constituting West Virginia, as shown by plaintiff's statements of this account (R. 371)	
was	\$ 5,639,302.66
As shown by defendant's statements.....	1,251,288.92
Difference in the two results is.....	\$ 4,388,013.74

In considering the questions which are presented by the controverted items in the schedules filed under this paragraph, it is important always to bear in mind the precise language of the decree, which, following the terms of the Wheeling Ordinance, directs the ascertainment of:

"ALL expenditures made by the Commonwealth of Virginia within the territory now constituting the State of West Virginia, since any part of the debt was contracted."

It is manifest that that language in explicit and comprehensive terms, embraces, without exception or qualification, all expenditures of whatever character or description, and on whatever account, or for whatever purpose, or in whatever manner, which were made by the Commonwealth of Virginia in any part of the new territory now constituting West Virginia, after March 19, 1823, the agreed time at which any part of the debt in question was contracted.

The only questions to be considered, therefore, in determining whether any particular expenditure made during that period should be charged against West Virginia, are: First, Was it

made by the Commonwealth? and, Second, Was the money expended in West Virginia?

Now, governed by these plain requirements of the decree, the accountants engaged on behalf of Virginia have embraced in this account all such items of expenditure, and only such items of expenditure, as were made by the Commonwealth within the territory of the new State during the period stated.

To a number of these items of charge counsel for West Virginia make objection, not on any ground that the expenditures they challenge were not made, or were not made in West Virginia territory, but in some instances because of the manner in which the expenditures were made; in others because of the character of the particular expenditure, or the purpose for which it was made; and in other cases, as for instance the expenditures made in West Virginia on the Covington & Ohio Railroad, on the Winchester & Potomac Railroad, and upon the Berryville and Charlestown Turnpike, upon the ground that Virginia has, since these several expenditures were made, in some way, by acts or transactions in reference to these subjects released, or lost, her right to embrace those items of expenditure in this account.

As appears from Joint Exhibit "C-1," R. 371, the charges upon this account allowed by the accountants for plaintiff, and excepted to by the defendant, are classified as follows:

Items of Plaintiff's Charges Excepted to by West Virginia:

Expenditures in W. Va. upon railroads.....	\$ 1,316,992.42
Expenditures in W. Va. upon turnpikes.....	430,252.89
Miscellaneous expenditures in W. Va.....	1,154,000.10
Expenditures in bridges, river improvement, banks owned by joint stock companies, and loaned to Town of Bath.....	1,486,768.33
	\$ 4,388,013.74

We will consider these in the order in which they are stated in Exhibit "C-1.":

I. The expenditures upon railroads which West Virginia questions, are—

Expenditures on the Covington & Ohio R. R....	\$ 1,146,460.42
Expenditures on the Winchester & Pot. R. R....	170,532.00
	\$ 1,316,992.42

(1) The expenditures upon the Covington & Ohio R. R.

There is no question that those expenditures were made by the Commonwealth "since any part of the debt was created;" nor that they were made "within the territory now constituting the State of West Virginia."

But opposing counsel claim that in some way Virginia has lost her right to have those expenditures charged against West Virginia by reason of the public acts and transactions of Virginia and West Virginia in reference to this railroad. This objection has been stated so vaguely that I am at a loss to know upon what ground it is based.

The Covington & Ohio Railroad was owned and built by the Commonwealth under the Acts of February 15, 1853; March 13, 1856; March 20, 1858, and February 29, 1860. (Appendix 33, 34.) The work was unfinished at the time of the formation of the State of West Virginia, though over \$2,787,000.00 had been then spent upon it.

By operation of the public Acts under which West Virginia became a State, West Virginia became entitled to so much of that unfinished railroad as was within her limits, but on condition that she should "duly account for the same in the settlement hereafter to be made with" Virginia. (Section 5 of Act of February 3, 1863. Appendix 128, 130.)

How West Virginia should account for that property and the expenditures which it represented, was distinctly prescribed by Section 9 of the Wheeling Ordinance (Appendix 119, 122), and was prescribed nowhere else.

It thus appears, that after June 20, 1863, West Virginia owned the portion of the Covington & Ohio Railroad in that State as completely as Virginia owned the portion of that road within her limits.

As is shown by the subsequent legislation of the two States, both States were very anxious to secure the completion of that railroad from its intersection with what was then known as the Virginia Central Railroad at Covington, Virginia, to a point on the Ohio River, thus giving a through railroad connection from Richmond, Virginia, through the entire State of West Virginia to the Ohio River, at the mouth of the Big Sandy, or at the mouth of the Great Kanawha, with the right to build to both points.

Both States were, as is shown by that legislation, willing to give to the company which should complete that through line of railway, the right of way and property of each State, respectively, in the parts of the unfinished road located in each State, and the benefit of the large expenditures made in its partial construction. Virginia, though very little of the proposed new railway would be within her limits, made still more liberal concessions to the builders of the through road, in reference to the sale to the new company of the Blue Ridge Railroad wholly within Virginia, and to the sale of the stock of Virginia in the Central R. R. Co., and to the settlement of the indebtedness of the Central R. R. Co to Virginia.

To effectuate the purposes of the two States, concurrent Acts were enacted by their respective Legislatures for the incorporation of the Covington & Ohio Railroad Company, passed by Virginia February 26, 1866, (Appendix 35), and by West Virginia March 1, 1866, (Appendix 37), and to authorize the consolidation of the Covington & Ohio Railroad Company with the Virginia Central Railroad Company and other companies, and the formation of the Chesapeake & Ohio Railroad Company for the purpose of completing "a continuous line or lines of railroad from the waters of the Chesapeake to the Ohio River." Passed by West Virginia February 26, 1867, (Appendix 40), and by Virginia March 1, 1867, (Appendix 43.)* See also Section 9 of Act of Virginia February 26, 1866 (App. 36), and Section 9 of Act of W. Va. March 1, 1866 (App. 39.)

It will be seen that the interests which West Virginia had in the building of the proposed railroad were far greater and more vital than those of Virginia.

West Virginia at that time had no railroad within her limits, except the Pennsylvania across the Pan Handle, and the Baltimore & Ohio through the northern portion of that State.

The New River, and Kanawha Valleys, and the entire southern portion of West Virginia, were without a mile of railroad, and large parts of those sections were inaccessible to the outside world by any practicable line of communication.

*By Act of January 26, 1870, the Legislature of West Virginia amended the charter of the Chesapeake & Ohio R. R. Co., and confirmed, the contract made by the commissioners on behalf of the two States with the Virginia Central R. R. Co., under authority already granted by Virginia, by the Act of February 26, 1866, (Appendix p. 35-36) and by West Virginia by Act of March 1, 1866, (Appendix 37-39). (App. p. 46.)

The enterprising young State accordingly freely donated all the property rights which she had in the Covington & Ohio Railroad, situated within her limits, to the builders of that railroad, just as the older State, in larger degree, contributed even more generously to the same important object.

The legislation of the two States upon this subject, printed in the Appendix pp. 35 to 49, will be read in vain to discover any provision which can be so wrested as to be construed to refer in any way to the liability of West Virginia to pay some part of the Virginia debt, or to release that State from any part of that liability.

Those concurrent enactments can be construed to do only what they did do, that is, to give the consent of the two States to the establishment of, and by their respective grants to secure, a through line of railway from the waters of the Chesapeake to the banks of the Ohio, and to grant the property rights of each State in and to the portion of the respective railroads situated in each State, to the consolidated company, for that purpose.

If the Wheeling Ordinance and the Act of the Wheeling Legislature were operative to prescribe the basis on which the proportion of the Virginia debt to be assumed by West Virginia was to be ascertained, and to vest in the new State the ownership of the portion of the Covington & Ohio railroad located in West Virginia, there is not a line or a syllable of those concurrent Acts of the two States which can be construed to repeal or to modify the provisions of that Ordinance, or those of the Act of February 3, 1863, of the Restored Government of Virginia. On the contrary, the concurrent Acts referred to recognize West Virginia's rights in the Covington & Ohio Railroad; and those rights were, we know, derived by West Virginia by virtue of said Act of February 3, 1863, and under said Ordinance.

It would require a far-off and capricious flight of the imagination to construe the language of those concurrent Acts so as to make them operate to prevent Virginia, when she comes to have a settlement with West Virginia as to the part of the common debt which West Virginia should pay, from insisting that West Virginia should, according to her own agreement, be charged in making up that account with the amount expended upon the Covington & Ohio Railroad within the limits of the new State, if the Wheeling Ordinance is to control to any extent in that accounting.

As already intimated, we have been left to conjecture as to any

ground upon which defendant's counsel could rest their exception to this charge. Can it be some eccentric application of the principle of Equitable Estoppel, one of the favorite resorts of ingenuous counsel in extremity? Any application of that doctrine to this branch of this case would be unwarranted by principle, or by precedent, strange, strained, and capricious as some of its applications have in rare instances been.

There is nothing in any of those concurrent Acts of the two States to suggest that either State was conceding anything to the other. Both were conceding a great deal to the Covington & Ohio and to the Chesapeake & Ohio Railroad Companies, and for obvious reasons.

The only consent which was given by either State which could have any bearing upon their relations to the common debt, was to the sale by Virginia of the Blue Ridge Railroad for bonds of the undivided State; but under the Wheeling Ordinance that was a matter of no interest or concern whatever to West Virginia, and it is upon the assumption of the validity of that Ordinance that this particular account is wholly predicated.

The account of this matter, as claimed by the plaintiff is distinctly responsive to the decree.

That claimed by the defendant would not satisfy the decree, and cannot be set up without going counter to both the decree and the Ordinance.

(2) The expenditures upon the Winchester & Potomac Railroad in West Virginia.

The objection of the defendant to this is twofold:

First, that the outlay was not made by Virginia directly, but through the agency of a joint stock company by way of subscription to the capital stock of the Winchester & Potomac Railroad Company; and

Second, that Virginia has lost her right to have this expenditure included in making up the account against West Virginia, by reason of the fact that Virginia, before and since 1861-3, has sold, commuted, or otherwise disposed of her interest in and claim against that railroad.

The first ground will be considered later in connection with the discussion of similar objections made to a number of charges for

expenditures made by the Commonwealth upon turnpikes, bridges, and the improvement of the navigation of rivers, through the agency of joint stock companies.

Recurring to the second ground of objection stated:

There is no doubt that the sum of \$270,000.00 was expended by the Commonwealth in the construction of the Winchester & Potomac Railroad; nor that 63-16/100% of that road, embracing the more costly sections of it, was in what is now West Virginia, so that at least \$170,522.00 of the \$270,000.00 expended by Virginia upon it must have been expended in West Virginia territory.

These facts would seem absolutely to satisfy the conditions of the Wheeling Ordinance, and to furnish a complete answer to the inquiry directed by the 3d paragraph of the decree.

Counsel for defendants would exclude from that inquiry any expenditures made by the Commonwealth in West Virginia, for which Virginia at any time has received property, or stock, or obligations which she has sold, realized upon, or released, or commuted, or otherwise disposed of.

To justify this contention it would be necessary to change and add to the language of Section 9 of the Wheeling Ordinance, and also the mandate of the decree of reference, by interpolating after the word "contracted" the following or equivalent words, "for which expenditures the Commonwealth has not received and realized any return in money, stocks, bonds, or other thing of value," or words to some such effect.

The decree following the Ordinance directs an ascertainment of *all* expenditures. The counsel for defendant would limit that ascertainment to expenditures of a particular character, and to such as were not represented by stock or bonds or other security given to the Commonwealth, and which the Commonwealth had sold, commuted, surrendered or otherwise disposed of.

Neither the Wheeling Ordinance nor the decree predicated upon it, took any account of the character, the purpose, the wisdom, or the profitableness of the expenditures. The only *criteria* adopted were: First, whether the expenditures were made by the Commonwealth; second, whether they were made after any part of the public debt was contracted; and third, whether they were made in any part of the territory now constituting West Virginia.

If these conditions are satisfied, the expenditures must be included in the account, however profitable or however disastrous they

may have proved, and as a rule they were generally exceedingly unprofitable in any financial results to the Commonwealth, though the direct and indirect benefits to West Virginia from those expenditures have been very great.

The legislation of Virginia in reference to the Winchester & Potomac Railroad and the expenditure of the \$270,000.00 upon that road will be found at pages 27 to 32 of the printed Appendix. One hundred and twenty thousand dollars of the appropriation was for stock, and \$150,000.00 was represented by a loan. The Commonwealth, by Act of February 24, 1846, (Appendix, 30) commuted its claims to *interest* and *dividends* to an annuity of \$5,000.00 a year, with the stipulation that if default should be made in its payment, the whole of the debt and interest due could be collected. Default was made in 1861, and in the six following years.

By the Acts of Virginia of February 22, 1866, and April 25, 1867, (Appendix 31 and 32), the company was authorized to pay to the State \$83,333.33, with all the interest due thereon, in any bonds of Virginia at their par value, in satisfaction of any claim of the State against the company.

It will be observed in this connection that the sum so to be paid to the present State would not return to Virginia the amount which had been expended on this railroad *within her own territory*, which was the difference between \$270,000.00 and \$170,522.00—\$99,447.00 with a great many years' unpaid interest thereon.

Under the "artificial" terms of this inquiry, and of the Wheeling Ordinance, it makes no difference what may have become of any such expenditure, or what Virginia (or West Virginia) may have realized from it, *after June 20, 1863*. If Virginia received anything "from West Virginia Counties" *before June 20, 1863*, on account of the investment she had made in West Virginia territory in the Winchester & Potomac Railroad, then under the language of the 6th paragraph of the decree, and of the Wheeling Ordinance, West Virginia might be entitled to a credit for whatever sums the Commonwealth had theretofore so received from West Virginia Counties; but West Virginia cannot be entitled to any credit or setoff whatever for anything which Virginia may have derived from or on account of, that expenditure after June 20, 1863, either under the decree or the Ordinance, if indeed she is entitled to any such credit under the Ordinance after January 1, 1861.

As, under paragraph 3 of the decree, and under the Wheeling

Ordinance as heretofore construed in this case, although Virginia expended very large sums on the Covington & Ohio Railroad and elsewhere in West Virginia Counties, after the first day of January, 1861, for which expenditures she can make no charge against West Virginia, so West Virginia has no right to any credits for sums received by Virginia from any source after January 1, 1861, the arbitrary date prescribed by the Wheeling Ordinance for the settlement, and by the decree for this accounting, between the two States.

But while the foregoing circumstances and considerations justify this charge against West Virginia under the terms of the decree, it may not be amiss to call attention to the fact that besides the expenditures by Virginia upon the Winchester & Potomac Railroad of the \$150,000.00 evidenced by the mortgage released by Virginia in 1866-1868, Virginia also expended \$120,000.00 for which she received shares of stock, upon which she has in fact never been paid a dollar at any time, and that 63-16/100%, or \$75,792.00, at the least, of that \$120,000.00 were expended in West Virginia.

There is nothing in the terms of paragraph 3 of the decree or of the Wheeling Ordinance to sanction the elimination or reduction of this item of charge, because Virginia subsequently to 1861 realized something on account of the expenditure.

II. Expenditures upon turnpikes and roads charged under paragraph 3 of the decree, but excepted to by the defendant.

These items of expenditure are stated in detail on pages 2 and 3 of Exhibit "C-1," R. 373, and they aggregate \$430,252.89. It will be found that they were all made (1) by the Commonwealth, (2) in West Virginia (with the exception of the item of \$7,882.92), and (3) between March 19, 1823 and January 1, 1861, and therefore come strictly within the terms of paragraph 3 of the decree.

The first of these items objected to by West Virginia is \$11,932.52 expended by the State upon the Berryville and Charlestown Turnpike.

The following are briefly the facts as to this:

The State put \$11,932.52 in the part of that road lying in West Virginia, and afterwards to protect its interests when the road was sold under foreclosures, bought it in at the price of \$7,236.97. Defendant objects to the charge of the larger sum because (1) it was paid out in the purchase of stock in a joint stock company,

which objection will be discussed in another connection, and (2) because the State afterwards purchased the turnpike pursuant to the Act passed April 2, 1858, Acts of 1857-8, chapter 124, p. 95; and thereby extinguished its claim against the turnpike. (Appendix p. 145.)

This latter circumstance cannot take this item of expenditure out of the account, or affect it in any way. By the purchase, Virginia became the owner of the road and upon coming into existence West Virginia succeeded to her rights. All the same, Virginia expended \$11,932.52 and afterwards \$7,236.97 in West Virginia on that turnpike, and the fact that she expended the second sum, and that the first expenditure was a total loss, does not make the first outlay on this road any less an expenditure, and an expenditure in West Virginia. For Acts relative to this road, see Appendix, pp. 143-145.

The next items objected to are the expenditures made by the Commonwealth on the Kanawha Turnpike, and the improvement of the navigation of the Kanawha River. These expenditures were all made by the State, and made in West Virginia, and although some of them were made through the "Kanawha Board," that board was merely an agency of the State. All this abundantly appears from the Acts under which the expenditures were made. Acts of February 28, 1821; February 24, 1823; March 8, 1824; February 16, 1825; March 1, 1826; March 8, 1826; March 7, 1827; January 30, 1829; December 18, 1829; January 30, 1830; March 31, 1831; February 30, 1833, and March 11, 1834. Appendix, pp. 59 to 104. See also the later Acts as to the Kanawha Board of February 15, 1858, Appendix, p. 105, and sec. 9 of the Act passed March 23, 1860, Appendix, p. 110.

It is true that provision was made for providing the \$150,000.00 appropriated by section 9 of the last named Act, by the issue to the Kanawha Board of bonds of the Commonwealth for that amount, and that it took the form of a loan of those bonds, but a loan to an agency of the Commonwealth itself. The form and mode of the expenditure does not alter the fact or make it any less an expenditure upon the Kanawha River, and wholly within what is now West Virginia.

Only three instalments of \$20,000.00 each, making the item of \$60,000.00 charged, were delivered to the Kanawha Board prior to 1861. There were one or more instalments of \$20,000.00 delivered

after January 1, 1861, but they have been excluded from the account as being after the date fixed by the Wheeling Ordinance, and also by Section 3 of Article 8 of the first Constitution of West Virginia, and by the decree fairly construed.

Others items objected to in this schedule are the charges for expenditures by the Commonwealth in West Virginia as follows: On the Brandonville, Kingwood & Evansville Road \$10,595.83; on the Clarksburg Turnpike, \$19,259.36; and on the Kingwood & West Union Turnpike, \$18,140.61. The Acts of Virginia relative to those turnpikes and the expenditures in question will be found printed in the Appendix, pp. 136 to 141. It is not denied that these expenditures were all made by the Commonwealth after the debt was contracted and before 1861, and in West Virginia, but it is argued that these expenditures should be excluded from the account because they were not remunerative to Virginia, indeed because Virginia received nothing from them whatever and that they were donations by Virginia. All the same they were outlays in West Virginia.

It might be answered also that West Virginia got the turnpikes and the benefit of the improvements made with the money so expended by Virginia in West Virginia; but the matters of gain or loss, benefit or disadvantage, are not factors to be considered in making response to the 3rd paragraph of the decree. The sole question to be considered is whether any particular expenditure was made during the defined period in West Virginia, and these expenditures all come within the limits of that inquiry, and must be included in the account, even though it could be proved that all of these turnpikes were destroyed by a flood or an earthquake the next day after the expenditures were made. See statement of Mr. McClintic, rec. p. 451; and evidence of Mr. Seoville, p. 480.

This concludes my review of the defendant's objections to the expenditures made upon "turnpikes and roads."

The subject of expenditures made by the State in roads, etc., built by Joint Stock Companies will be discussed in another connection where it may be appropriately considered.

III. Miscellaneous expenditures charged under paragraph 3 of the decree, excepted to by defendant.

(1) Expenditures in West Virginia in connection with the "Harper's Ferry Raid."

In October, 1859, John Brown, with a small armed force, invaded Virginia for the purpose of inaugurating a servile insurrection.

They captured and occupied the United States Arsenal at Harper's Ferry, Jefferson County, which was intended to be their base of operations into the adjacent region in Jefferson County, now West Virginia, in which there was a large slave population.

Their speedy failure and defeat, and the capture of the survivors, was followed by the indictment of their leader and his surviving Confederates and their trial and conviction in the Civil Court of the State having jurisdiction of their offense, and by their sentence and execution.

The Commonwealth incurred a considerable outlay in connection with the suppression of this so-called "raid." Subsequently, pending the trial and execution of the accused, rumors of organized attempts for their rescue, and of a threatened invasion of the State for that purpose, became rife, and a considerable force of the organized militia of the State was assembled at Charlestown, the place at which John Brown and his Confederates were imprisoned and afterwards tried and executed, to guard against any attempt at their rescue, and to repel any such invasion of the Commonwealth.

The entire cost of this Harper's Ferry Raid to Virginia was \$255,745.77. (See Document No. 2, Journal of Senate of Virginia, Extra Session 1861. See also Acts of January 23, 1860; March 6, 1860; and March 28, 1860; Appendix, pp. 148 to 151, and Joint Exhibit C-1, p. 3.)

Of this outlay, expenditures aggregating at least \$189,718.59 were actually made in Jefferson County, now a part of the territory of West Virginia. Only such expenditures as can be definitely allocated to that territory have been embraced in this charge, and the items so embraced in it, do not include any part of the cost of the trial, or execution of the prisoners.

This charge is objected to, as we understand, on the ground that West Virginia was not pecuniarily interested in the object of these expenditures, nor benefited, nor "improved" thereby. (Rec. 446-448.) Paragraph 3 of the decree does not limit the expenditures which were required to be charged against the new State, to those which were remunerative or beneficial.

Under the direction of the decree, and under the arbitrary terms

of the Wheeling Ordinance, we have nothing whatever to do here with the purpose for which a particular expenditure was made. The only facts to be determined in regard to it are whether it was made by the State between 1823 and 1861, and whether the outlay was made in a county now constituting a part of West Virginia.

As to this item, the accountants have only charged West Virginia with expenditures actually made by the State in 1859-60 in West Virginia territory.

All expenditures made by the Commonwealth within the territory now constituting the State of West Virginia are required by the decree to be included in this account, and these items of expenditure cannot be excluded without going counter to the explicit order of the court.

(2) The next item in this group of expenditures objected to by the defendant is the charge of \$830,865.37, being the agreed aggregate sum which was paid by the Commonwealth to the school commissioners in the several counties now constituting West Virginia during the prescribed period.

The expenditures included in this item were made under the several Virginia statutes which are embodied in Chapter 79 of the Code of 1849, and particularly in Section 6 of that Chapter, and those cited upon the margin thereof as the same is printed, Appendix, p. 146.

As will be seen, the sums set apart annually for the purpose of educating the indigent children of the State, was appropriated directly to, and in every case expended in the several counties in proportion to the free white population of the counties respectively.

The quota thus ascertained and assigned to each county was explicitly appropriated and paid over to, and expended in each county.

There are no expenditures which were made, or which could have been made, by the Commonwealth during that period which could be more distinctly allocated to West Virginia counties, than the payments made to the school commissioners of those counties.

It is in the first place objected to this charge on behalf of West Virginia, that the moneys thus appropriated and expended by the Commonwealth consisted of the interest on invested funds forming the Literary Fund of the Commonwealth, a part of which fund had been accumulated prior to March 19, 1823.

That is true only as to a portion, and the smaller portion of the

annual appropriation made to the schools. The fund was made up of (1) the balance of a debt due Virginia by the United States after paying what Virginia owed the Farmers Bank of Virginia, of (2) moneys derived from escheats, (3) forfeitures and fines (other than militia fines), and (4) certain receipts from the sales of land in West Virginia forfeited and sold for delinquent taxes,—and after the Act of 1852-3 to this was added (5) the receipts from capitation taxes. (See Appendix pp. 146 to 148, and notes.) The Board of Commissioners of the Literary Fund was the governmental agency of the Commonwealth created for the purpose of taking care of the permanent Literary Fund, by investing the same in the manner authorized by the statute. Revised (Va.) Code 1819, Ch. 33.

The amount expended in each county was appropriated annually, and paid out of the State Treasury by warrants of the Second Auditor upon the Treasurer.

V. C. 1849, c. 45, Sections 17, 19, 22, 30. Acts 1822-3, Ch. 45, Sections 2, 3 and Ch. 5.

V. C. 1860, c. 45, Sections 18, 20, 27, 31.

Appendix, p. 146-148 and notes.

But that has nothing on earth to do with the propriety of the charge. However derived, the moneys which were from year to year appropriated by the Commonwealth to West Virginia counties for the education of the indigent children therein, were paid by the Commonwealth out of her treasury, and were expended by the Commonwealth in the counties now constituting the new State.

The 3rd paragraph of the decree takes no account of the sources from which the money expended was derived. All money expended by the Commonwealth in West Virginia during the period defined in the decree must be included in the account no matter from what source the same was derived.

Another objection made by opposing counsel to the amount of, and manner in which, this charge is made is, that the expenditures made by the State for the education of indigent children were among the ordinary expenses of the State government, and that whatever is properly chargeable to West Virginia under this head, should be embraced in the account directed by paragraph 4 of the decree, in which the Master is required to ascertain:

“4. Such proportion of the ordinary expenses of the government of Virginia since any of said debt was contracted, as

was properly assignable to the counties which were created into the State of West Virginia on the basis of the average total population of Virginia, with and without slaves, as shown by the census of the United States."

This contention would be well founded but for the language of paragraph 3, which, precisely following the Ordinance, explicitly and unqualifiedly requires the Master under that head, to ascertain "*all expenditures made by the Commonwealth of Virginia within the territory now constituting the State of West Virginia since any part of the debt was contracted.*"

Now, there can be no doubt, but that all of these payments made by the commonwealth during that period into the respective West Virginia counties for the education of the indigent white children therein, were expenditures made by the Commonwealth in those counties, and that they must therefore be embraced in the account taken under paragraph 3, where they unquestionably properly belong, whatever may be done with them in connection with paragraph 4.

When we come to discuss the account under paragraph 4 we will consider the relation of this item of State expenditure in West Virginia to that account.

The contentions of the learned counsel cannot be sustained in this regard without radically changing and re-writing the decree of the court.

(3) The next charge in this group of expenditures excepted to by defendant is that for surveys made in West Virginia counties amounting to \$106,416.14. Exhibit "C-1," p. 3, R. 374.

The expenditures made in West Virginia under this head were made by the Commonwealth pursuant to various Acts of Assembly, among them the Act of March 30, 1831, providing for surveys of the South Branch of the Potomac: Acts of February 21, 1835, for survey of Elk River; of February 20, 1834, for survey of the Sistersville Branch of the North Western Turnpike; of March 13, 1834, for survey of turnpike from Lewisburg to Blue Sulphur; of March 16, 1836, for survey of road from Moorefield to North Western Turnpike; of January 12, 1836, for survey of road from Leading Creek to North Western Turnpike in Randolph County; of January 12, 1836, for survey of the several roads in the vicinity of Morgantown mentioned in that Act; and of February 20, 1838,

for the survey of the Little Kanawha River. Appendix, pp. 151-155.

All of these surveys were in West Virginia, and the money which they cost was necessarily expended in that State.

Besides the above, there was the amount assignable to West Virginia for the geological reconnaissance made under the Act of March 5, 1835. Appendix, p. 151.

The cost of all of those surveys was represented by expenditures actually made by the Commonwealth in West Virginia territory between 1823 and 1861.

(4) The defendant objects to \$27,000.00 of \$125,000.00 paid out by Virginia prior to 1861 for construction account of the Trans-Alleghany Lunatic Asylum at Weston, West Virginia.

The incontrovertible facts as to that, are that the full sum of \$125,000.00 was paid over by the Commonwealth to the proper authorities of that corporation prior to 1861.

So far as the State of Virginia, and her treasury, were concerned, that sum had been paid out and expended past recall before January 1, 1861.

There was no officer or body in the Commonwealth who could lawfully seize it or take it back, or appropriate it to any other purpose.

The money was on deposit in the Bank at Weston to the credit of the Trans-Alleghany Asylum.

Some \$27,000.00 of it in specie was seized by order of F. H. Peirpoint, Governor of the Restored Government of Virginia, by John List, an agent appointed by Governor Peirpoint, supported by a detachment of Federal Cavalry detailed for the purpose by General Rosecranze, the Commander of the Federal troops at Clarksburg, and was carried by them to Wheeling where it was deposited in the banks of that city. The money was afterwards used in building the Asylum at Weston. See Lewis' History of West Virginia, pp. 370-71.

Mr. Lewis states that the money was sent to Weston in the early spring of 1861. The records of the Commonwealth show that it was paid over to that Asylum prior to January 1, 1861.

It is claimed on behalf of Virginia, that this money was, as to her treasury, and so far as the Commonwealth is concerned, to all intents and purposes paid out and expended in West Virginia before January 1, 1861, and that its status and relation to the Com-

monwealth was not changed by the circumstance; that after 1861 it was transferred for safe keeping from the bank in Weston to the banks in Wheeling, and subsequently used by the authorities of the Asylum at Weston in building that Asylum. No act of appropriation, such as it is urged was passed by the Wheeling Legislature was necessary to invest the Northwestern Lunatic Asylum with the title to that money for it was already the property of that corporation.

IV. The defendant excepts to all charges for expenditures made by Virginia in the territory now constituting West Virginia, which were made through the agency or medium of joint stock companies. These expenditures are embraced in Group II, of the schedules included in Joint Exhibit "C-1," and will be found stated on pages 4, 5, & 6 of that Exhibit.

They may be considered under these heads:

(1) Expenditures made by Virginia upon internal improvements in West Virginia through the agency of Bridge Companies, Navigation Companies and Turnpike Companies.

(2) Expenditures made in the establishment of Banks in West Virginia territory.

(3) The loan to the Town of Bath.

(1) Expenditures made by Virginia upon West Virginia Bridges, Rivers, and Turnpikes through the medium of joint stock companies:

These expenditures aggregated,

Upon Bridges	\$ 78,412.50
Upon Rivers	210,500.00
Upon Turnpikes	803,555.83

Total\$ 1,092,468.33

The material facts as to all of these expenditures are, for the purposes of this inquiry, substantially the same, and the same principles should control in determining the proper disposition to be made of these items, in the accounting.

The money appropriated by the Commonwealth in each instance

was unquestionably expended in West Virginia territory; for all of these improvements were physically located in West Virginia counties.

Defendant objects to bringing them into this account *because of the manner in which the expenditures were made*; that is, because they were not made by the State directly through the hands of her own officers or immediate employees, but were made by the State indirectly through the medium of joint stock companies; that they were not made upon bridges, locks, dams and other improvements in rivers, and upon turnpikes, wholly owned by the State, but upon such works of internal improvement as were only partly owned by the State.

The works and highways upon which these expenditures were made in every instance had their situs in West Virginia and the State money appropriated to them was expended in West Virginia.

The chief difference between these expenditures and those made directly by the State through its own officers and employees, which are considered by the defendant to be proper charges under this head, was, that in the one case the State received a certificate of stock in a joint stock company (which stock usually proved valueless), as the representative of the expenditure, while in the other case the State would receive merely a receipt or voucher from her officers as an evidence of the outlay.

In either case the Commonwealth, and West Virginia as her successor, received the benefit of the bridge, improvement of navigation, or turnpike on which the State money had been expended, and it is manifest from the history of these public works that the benefits which it was hoped that the public would derive from their construction generally constituted the chief inducement and consideration both to the public and to private investors.

There can be no question that any expenditure made by Virginia, by her several and independent acts, upon any work of internal improvement, or other object, in West Virginia, during the defined period, is a proper and necessary charge against West Virginia under the terms of the 3d paragraph of the decree, and under the Wheeling Ordinance.

This is conceded by the counsel for West Virginia.

Now, it is equally clear that any such expenditure made by Virginia in association, or in partnership, with other corporations or

individuals, would be also a proper and necessary charge against West Virginia under the decree and Ordinance.

Here, in a number of cases, Virginia, instead of going into an ordinary partnership with her associates in the various enterprises in question, chose to form a limited liability company to do the same thing which could have been effected by an ordinary partnership: for a joint stock company is, in law, and in fact, nothing more than a limited liability company.

In the country from which we so largely derive our institutions and our laws, they are termed "limited liability companies."

How can it be even plausibly contended that, because Virginia, for obvious considerations of convenience and public interest, chose to expend her input in these public improvements and other enterprises in West Virginia territory, through the medium or agency of a limited liability company, such expenditure is any less an expenditure by the State than it would have been had it been made through an unlimited liability partnership?

There is no qualification of the expenditures which are to be charged, such as counsel for West Virginia have had to attempt to make, either in the decree or in the Ordinance. The words "direct" and "indirect" are not found in either decree or Ordinance.

Opposing counsel are forced by the stress of their case to interpolate the word "direct" both in the decree, and in the Ordinance, an interpolation which, while deemed necessary for the purposes of their argument, is absolutely unwarranted by the decree or by the Ordinance.

But even if that word were in the decree and Ordinance, it would not justify their contention; for an expenditure such as the State made in the improvement of Coal River, or upon the Huntersville and Parkersburg Road, or upon any one of the turnpikes and roads built partly by State aid, was a *direct* expenditure by the State, though paid, for the purpose of building the road or other internal improvement, to the treasurer of a corporation having its domicile and situs in West Virginia territory.

It is a conclusive answer to all of these objections to these items of expenditure that the account directed by paragraph 3 of the decree is not limited to such expenditures as were made directly by the State; nor to expenditures made upon bridges, locks, dams and sluices, and upon turnpikes wholly owned by the State; nor to ex-

penditures for which the State received no return, nominal or otherwise, in the shape of shares of stock. That account is required by the decree to include "*all expenditures* made by the Commonwealth of Virginia within the territory now constituting the State of West Virginia since any part of the debt was contracted."

The view which is here taken of these expenditures of the Commonwealth in works of internal improvement constructed in West Virginia territory is the view heretofore consistently taken by the representatives of West Virginia most familiar with the subject.

The eminent citizens of West Virginia who constituted the Virginia Debt Commission appointed by the Governor of West Virginia pursuant to the resolutions adopted by the Legislature of West Virginia February 15th and 20th, 1871, in the elaborate report made by them on the 7th of August, 1871, reviewing the entire subject of West Virginia's liability for a portion of the Virginia debt, found that the expenditures made by Virginia in the construction of turnpikes and bridges, and in the improvement of rivers, built or improved by joint stock companies, were properly chargeable against West Virginia under the Wheeling Ordinance in like manner as were expenditures made in roads constructed wholly on State account.

Accordingly we find that in their report they charge West Virginia with \$3,343,929.29 "for amounts expended and invested in her territory," the items of which they state in detail in statement "F," exhibited as part of their report, and which sum, and the items of which it consists, include large amounts expended in West Virginia through the medium of joint stock companies.

See report of West Virginia's Debt Commission, May's Compilation of the record of *Virginia v. West Virginia*, pp. 471, 472, and pages 479 to 486.

The gentlemen composing that commission were J. J. Jackson, J. M. Bennett and A. W. Campbell. Mr. Bennett had been the First Auditor of Virginia from 1857 to 1865. Messrs. Campbell and J. J. Jackson were active participants in the movement resulting in the formation of the new State. They were doubtless familiar with the inside, as well as with the outside, history of that revolution, and with the true meaning and intent of the Wheeling Ordinance.

There are some very large errors of omission in statement "F," and patent errors on the face of the report; but still it serves a

valuable purpose in showing what was the construction placed upon the Wheeling Ordinance in this regard by these very intelligent representatives of West Virginia, in the earliest stages of this controversy at a time when most of the framers of that Ordinance were still alive.

Two years later, in December, 1873, a committee of the Senate of West Virginia, of which Mr. J. M. Bennett was the Chairman, came to again review the question of West Virginia's liability for the debt of Virginia.

In a carefully considered report dated December 22, 1873, that Committee unanimously adopted the figures above given as to the amount expended by Virginia in West Virginia, and which they concede to have been "contributed to the development of the territory of West Virginia." R. 166, 168.

When years afterwards West Virginia was urging the payment of her claim against the United States for the refund of the direct tax, which was being withheld because the United States held certain old bonds of the State of Virginia for the payment of which it was claimed that West Virginia was liable, Mr. Alfred Caldwell, former Attorney-General, and E. W. Wilson, former Governor of West Virginia, in their brief filed before the Attorney-General of the United States, again adopt the construction of the Wheeling Ordinance previously approved by the West Virginia Debt Commission, and by the Finance Committee of the Senate of West Virginia. See brief of Messrs. Caldwell and Wilson, pp. 5 and 6.

This construction of the Wheeling Ordinance adopted by the contemporary jurists and publicists of West Virginia remained unchallenged for more than thirty-three years, until after this suit was instituted, when a new light seems to have dawned upon the representatives of that resourceful State, and for the first time in all of the long agitation and discussion of this subject, a forced and unnatural construction is attempted to be placed upon the Wheeling Ordinance so as to limit the amount for which West Virginia is to be charged on account of expenditures made by Virginia in West Virginia territory so as not to embrace "*All expenditures*," but to include only a portion, and much the smaller portion, of those expenditures.

(2) Similar considerations furnish an answer to the objection of defendant to the item of \$391,800.00 expended by Virginia in acquiring an interest in banks established in West Virginia though

this sort of expenditure was different in kind rather perhaps than in principle, from the expenditures made upon works of internal improvement having their physical situs in West Virginia.

These banks had their domicile, their legal situs for taxation, and all other purposes for which such a corporation would have a place of residence, in West Virginia counties, and the expenditures made by the Commonwealth in the purchase of a part ownership in those Western Virginia banks, can, we think, be properly allocated to West Virginia territory under the language of the decree, and can be properly assigned to no other locality.

We are convinced that this is the proper place for these items of expenditure; but as to this the question may not be of very great practical importance; for the defendant admits that she should be charged with the value of this investment made by the State, and that investment was doubtless worth par or more than par on the 1st of January, 1861, the arbitrary (but it may be possibly in this aspect not unfair) date prescribed both by the Wheeling Ordinance and by the first Constitution of West Virginia as the date as of which the settlement should be made.

Though the result might be substantially the same if the investment in banks be treated as West Virginia's representatives, from the Bennett Commission down to the present time, have proposed, that disposition of those expenditures would not conform to the requirements of the decree as does the one upon the correctness of which we here respectfully insist. It may not be a matter of great importance whether the investments made by Virginia in West Virginia Banks are charged under Paragraph 3 or under Paragraph 7 of the decree; but it is important because it is right, that they should be charged under one or the other of those paragraphs.

(3) "The loan or appropriation to the Town of Bath."

The character of this transaction is shown by the Act of March 8, 1847, authorizing the expenditure. Appendix, p. 155.

It was, we submit, an expenditure by Virginia in West Virginia. It is true that Virginia was to receive a return for it in the shape of interest, which return she has not received since the formation of West Virginia, and the right to collect the same was assigned to West Virginia by the Act of the Wheeling Legislature of February 3, 1863:

Here, again, if this item is not chargeable against West Virginia under Paragraph 3 of the decree, it is clearly chargeable under

Paragraph 7 of the decree; but it is properly chargeable under Paragraph 3, and should remain there.

IV.

The fourth paragraph of the decree directs the ascertainment of:

“4. Such proportion of the ordinary expenses of the government of Virginia since any of said debt was contracted, as was properly assignable to the counties which were created into the State of West Virginia on the basis of the average total population of Virginia, with and without slaves, as shown by the census of the United States.”

The differences in the computation of the total ordinary expenses of the State government between March 19, 1823, and January 1, 1861, as stated for the plaintiff and for the defendant aggregate \$19,586,526.89. See Joint Exhibit “D-1,” p. 1, R. 515.

They arise entirely from the difference in the classification of the several items of State expenditures during the prescribed period.

The defendant has so classified by far the greater part of those expenditures as to exclude them from this account.

The plaintiff has treated most of the State expenditures during that period as being ordinary, and has included them.

The 4th inquiry, also, is manifestly predicated upon the language of the Wheeling Ordinance, which provides that the new State shall be charged with “a just proportion of the *ordinary expenses* of the State government since any part of said debt was contracted.” R. 6.

The decision of the issue thus presented turns upon the meaning which those words carry in that connection; and their correct interpretation is necessary to enable us to determine the items of expenditure which go into this account.

The defendant has construed that language most narrowly, and so as to exclude many items not only of usual and lawful public expenses, but many that are appropriate, and some which are necessary for meeting important, if not essential, wants of the people of the State under the conditions of civilization obtaining in this country for more than a century.

Nor are the ordinary expenses of a State government merely

those which are necessary and regular in their occurrence, but perhaps quite as largely such as are usual, though not periodical, and such as are appropriate, if not essential, to the needs and aspirations of an enlightened and progressive people, and as are lawful.

In the constrained and narrow meaning ascribed to those words, and the consequent classification of State expenditures made, by the defendant, the contrast has been between some selected usual regularly recurring expenditures of what are claimed to be of a purely governmental character on the one hand, and all other expenditures of the State government, however proper, lawful, appropriate, regular, or indeed *necessary*, in a free American State, on the other hand.

Now, I respectfully submit that the contrast implied here is not between the word "ordinary" on the one hand and the word "regular," or even the word "usual," or any combination of those or other words on the other hand.

The contrast is, and was manifestly intended to be, between "ordinary" and "extraordinary," all ordinary expenses of the State government not already embraced in the account being intended to be included, and all "extraordinary" expenses to be excluded from the computation of the expenses, a just proportion of which should be charged against the new State.

Nor is the inquiry limited by its terms to such expenses as may be argued to be purely governmental, as for instance, the "civil list," and such as are usually incurred by a government acting distinctly in its political capacity. There is no such limitation expressed or suggested by the language of the decree.

The account is required to embrace "the ordinary expenses," and therefore all of the ordinary expenses of the State government during the prescribed period not embraced in the preceding account, of whatever character, must be included in it, so that it is not necessary for us to enter upon the field of conjecture and speculation which opposing counsel would have us invade, in order to determine what expenditures were, and what were not, distinctly governmental.

The fact is, that under the uniform practice of enlightened States and communities, such expenses as are usual, though not regularly periodical, and as are necessary, or appropriate, and are lawful—that is within the legitimate powers of the State government—are ordinary expenses, and such as are unusual, unnecessary, or ab-

normal, are to be considered as extraordinary expenses of a State government.

In a modern State, and particularly in a State of the American Union, caring for, conserving and promoting the economic and material, as well as the social, physical, intellectual and moral welfare of its people, many expenditures which may not be regarded as strictly governmental, and some which may not be distinctly necessary, are proper, lawful, usual, and ordinary.

It will be found that the terms "ordinary expenses of government" have been carefully considered by learned, trained, and able experts upon the subject of State revenue, expenditures, and finance, by experienced statisticians and accountants, and by courts of high standing, and that these authorities sanction the reasonable and natural construction and application of those terms which we claim to be their true meaning and intendment.

The following are some precedents and authorities bearing directly upon this subject, to which I have had access. They will be found to clearly and absolutely confirm the views above expressed.

I give first some precedents of the highest authority as to what public expenditures by National, State, and local governments are classified as "ordinary," according to the practice obtaining in this country.

I give first the classification as adopted by the United States Government.

The ordinary expenditures of that government are classified and stated as given below.

For this I take as an example the statements for the fiscal year ending June 30, 1874, from the Report of the Secretary of the Treasury of the United States, as follows:

"For Civil Expenses	\$ 17,627,115.09
For Foreign Intercourse	1,508,064.27
For Indians	6,692,462.09
For Pensions	29,038,414.66
For Military Establishment, including Fortifications, River and Harbor Improvements and Arsenals	42,313,927.22
For Naval Establishment, Including Vessels and Machinery, and Improvements at Navy Yards	30,932,587.42

For Miscellaneous Civil, Including Public Buildings, Light Houses, and Collecting Revenue	50,506,414.25
For Interest on the Public Debt.....	107,119,815.21
Total <i>Net</i> Ordinary Expenditures, Exclusive of the Public Debt (that is payments on Public Debt)	\$285,738,800.21''

Report of the Secretary of the Treasury of date December 7, 1874, page iv.

At page v of the same report, Hon. B. H. Bristow, the then Secretary of the Treasury, gives a similar itemized summary and classification of the ordinary expenditures of the National government for the first quarter of the fiscal year ending June 30, 1875. And on page vii of same Report he gives an estimate of the ordinary expenditures of the government for the fiscal year ending June 30, 1876, amounting to \$272,778,000.00, made up of the items as stated and classified in the statements of actual expenditures for the two preceding years.

In this statement there is estimated for

Interest on the public debt.....	\$98,000,000.00
On the Pacific Railway bonds.....	3,878,000.00

as part of the ordinary expenses of the government.

The report of the Secretary of the Treasury for 1904 (House Documents, 58th Congress, Vol. 31, p. 5) gives the total *ordinary* expenditures, exclusive of Postal Service:

	For 1903	For 1904
	at \$506,099,007.04	at \$582,402,321.31
including in these aggregates the following:		
For Indian Service.....	\$ 12,935,668.08	\$ 10,438,350.09
For Pensions	138,425,646.07	142,559,266.36
For Interest on Public Debt	28,556,348.82	24,646,489.81

The attention of the Master is called to the items which make up the above aggregate of expenses for those years which are given on pp. 3, 4 and 5 of that report, which will be found to be very inter-

esting as showing what expenditures of the government were classified as "ordinary."

The annual report of the Secretary of the Treasury for year ending June 30, 1908, gives the following statement of the ordinary expenses of the United States Government:

"Disbursements:

Civil Establishments	\$ 175,420,408.57
Military	175,840,452.99
Naval	118,037,097.15
Indian Service	14,579,755.75
Pensions	153,892,467.01
Interest on Public Debt	21,426,138.21

\$659,196,319.68

Postal Service	191,478,663.41
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Total *ordinary* disbursements, including

Postal	\$850,674,983.09
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See also the classification of ordinary expenses of the National government tabulated for the ten years ending June 30, 1890, in the Eleventh Census. House Miscellaneous Documents, 1st Sess. 52d Cong., 1891-92, Vol. 50, Part II., "Wealth, Debt, and Taxation," pp. 418, 419. The more carefully these tables are examined the more confirmatory they will be found of natural and reasonable construction of the words "ordinary expenses of the government of Virginia," adopted by the accountants for Virginia.

Examples to the same effect, as to the practice of the United States government in the classification of the expenditures which are ordinary expenses of government might be multiplied, but the above will suffice.

As to the expenses of State governments which are regarded and treated as "ordinary," I beg leave to refer to the volume of the 11th Census of the United States, just cited, where at pages 464 to 477 the annual and aggregate ordinary and other expenditures of each of the States of the American Union are stated for each year and for the decade ending with the fiscal year 1890.

It will be seen that in each instance the great mass of the expenditures of the State governments of a public character, including "charities and gratuities" (such as the maintenance of elee-

mosynary institutions and pensions), and including in every case "interest on State debt," are counted as ordinary expenditures of the State governments.

At pages 516 to 553 of the volume of the 11th Census just cited will be found a tabulated statement of the expenditures of 1,319 counties of the different States reporting in 1890, in which there is a compilation of such county expenses as are to be considered as "ordinary," which gives data very interesting and pertinent to our present inquiry. In every instance the "interest on county debt," as well as a number of other items of public expenditure of a more or less irregular occurrence, and not at all always politico-governmental in their character, such as expenditures coming under the heads of "Buildings, grounds and *improvements*," "Roads, ditches and *bridges*, charities and *gratuities*," and "*Miscellaneous*" are put in the category of ordinary expenses of government.

The same comments will be found to apply with emphasis to the returns and classification of the expenditures of cities having 50,000 or more inhabitants given at pages 556-557; and to the tables giving the same statistics as to municipalities having 4,000 or more, but less than 50,000 inhabitants, at pages 580-590 of the same volume of the 11th Census.

Strongly confirming the reasonable classification for which we contend will be also found the practice of both the States and cities of our country on this subject.

In this connection I would call attention to the Report of the "Bureau of Inspection and Supervision of Public Offices" of the State of Ohio for 1906, which gives comparative statistics of cities of Ohio. This report gives us a scientific and accurate classification of all public expenditures.

At pages 72-89 is printed a detailed schedule of ordinary expenditures of the cities of that State, each of which embraces the great mass of the expenditures of those cities for any public purpose, and in every instance counts interest upon the public debt as an "ordinary" expense.

A very valuable contribution to the law and literature upon this subject is the 46th Annual Report of the Comptroller of the City of Chicago, 1902. This particular report is of all the more significance because it is approved by Messrs. Haskins & Sells, Certified Public Accountants, of 30 Broad Street, New York, who were employed by the City of Chicago to supervise the preparation of all portions

of the Comptroller's Annual Report relating to the receipt, accounting for, and disbursement of moneys for the year 1902. (See their certificate at page 43.) This is all the more interesting because Mr. Thomas Bird Dixey, the accomplished Chief Accountant for West Virginia, testified that he was at one time the manager of Messrs. Haskins & Sells. At pages 90 to 97 of this Report will be found tabulated statements giving in considerable detail the items of the ordinary expenses of the City of Chicago for the year 1902, and the extraordinary expenses of that city for the year 1902 at page 98.

It will be seen that all interest paid, whether on bonded debt or upon miscellaneous accounts, and all cost of exchanges is charged as an ordinary expense of the city, and so also a vast number of items for salaries, maintenance of charitable and other institutions, maintenance, repair, and renewal of buildings, etc., are treated as ordinary expenses.

Some items are by these skillful accountants for Chicago rather arbitrarily classified as "extraordinary," which are among the usual, appropriate, and necessary expenditures of city governments, such as the purchase of new boilers for fire boat, the extension or the erection of new bridges, and the enlargement of various public works, expenditures which, however expert accountants may regard them, are, as we will presently see, according to judicial interpretation, as well as according to the uniform practice of the Federal, State, municipal and county governments, properly to be classed as ordinary expenses of a municipality or other local government.

Still the classification and system of accounting sanctioned by the City of Chicago supports the correctness of more than 95 per cent. in amount of the items which have been embraced by Virginia in the account of ordinary expenses of the State government.

Very many more examples and precedents from the well-considered and enlightened experience and practice of the National, State, county and municipal governments, in America, can doubtless be cited, but it would be merely cumulative authority for propositions which are almost axiomatic, and the precedents and authorities in the support of which are as to all of the items claimed by Virginia overwhelmingly preponderating, and as to more than

nineteen-twentieths in amount of those items practically unanimous.

I desire now to invite attention to the views of Doctor Bastable, a writer of recognized ability and authority upon any such question.

In his work on "Public Finance," in discussing the subject of "Public Expenditures," that eminent political economist says:

Sec. 1. "State outlay like that of an individual may be distinguished into normal or 'ordinary,' and abnormal or 'extraordinary.' These terms almost explain themselves, but may be thus contrasted: Normal expenditure is that which recurs at stated periods and in a regular manner; it is accordingly capable of being regularly estimated, and provided for. Extraordinary expenditure has to be made at indefinite times and for uncertain amounts, and it cannot be reckoned for with any approach to accuracy."

But he adds:

"The distinction is not always applied in the same way, and indeed the boundary line is not sharply drawn." P. 130.

And again on page 132:

"There is also in modern States a greater facility for foreseeing, and so to say discounting the future. The refined financial mechanism by which public borrowing is carried out enables 'Extraordinary' expenditure for a short period to be transformed into 'ordinary' expenditure for a long one."

And again at page 133:

"Abnormal expenditure also frequently occurs in a somewhat different way, as in the case of durable public works or other improvements. * * * Outlay of this kind is, in mercantile phraseology, 'chargeable to capital, not to revenue,' and is clearly abnormal. The method almost invariably adopted is to meet the abnormal outlay by an abnormal receipt, viz., borrowing, or to put it in another way, to turn the extra-

ordinary expense of a given year into the ordinary one of interest on debt."

This distinguished author wrote with reference to British precedents. In the States of the American Union there are many subjects of public expenditure which are usual, appropriate, and often necessary, though not regularly recurring which are doubtless unknown in Great Britain, but which are none the less ordinary.

The tendency of expert accountants seems recently to be to assimilate the accounts of expenditures of governments to those of public service and other like corporations; that is to treat those which are "chargeable to capital" as "extraordinary," and those "chargeable to revenue" as "ordinary."

A little reflection will show that there are many expenditures of a State which are necessary, proper, and usual under the conditions of modern civilization, and which therefore are "ordinary," but which add to the public, though not always to the fiscal, assets of the State.

As will be seen, the rule as sanctioned by judicial decision, and by the great majority of precedents, while affirming the main doctrine as laid down by Doctor Bastable, is in this particular somewhat different from that stated by him, and is in accordance with the reasonable and just contention of the plaintiff.

I now beg leave to call attention to a few adjudications which I have found, in which the questions above discussed have been passed upon by the courts.

In the case of the *Intendant and Council of Livingston v. Pippin*, 31 Ala. 542, the Supreme Court of Alabama passed upon the meaning and effect of a statute of that State which contained a grant of power in the following terms:

"That the intendant and council shall have power to lay and collect a tax on real estate, negroes and other property sufficient to defray the ordinary expenses of said corporation."

The intendant and council had contracted for furnishing the people of the town a supply of water by an artesian well to be dug in the public square.

The question was raised whether the authorities of the town could lay taxes for the purpose of meeting this expense. It was

claimed that they had "no authority to levy taxes except to pay the *ordinary* expenses of the corporation; and that the expenses of an artesian well cannot be classed as ordinary."

The court, in its opinion, says:

"The solution of this question depends on the proper construction of the words, 'ordinary expenses.'

It is well settled, that corporations, which owe their existence to the act of the legislature which called them into being, can only exercise the *powers which are expressly granted* to them, such implied powers as are necessary and proper to carry into effect the powers expressly granted, and such *incidental powers* as pertain to the purposes for which the corporation was created.—See *Central Plank Road Co. v. Mayor and Aldermen of the City of Montgomery*, at last term; *Ex parte Burnett*, 30 Ala. 461; *Angell & Amos on Corp.* (5th ed.) secs. 110, 111, 112.

These implied and incidental powers are unwritten and vary with the varying objects of the corporation. They may be, and frequently are, abridged and restricted by the express language of the act of incorporation; and when so abridged or restricted, the positive language prevails over the implications and incidents.

Ordinary expenses are the expenditures which are necessary to carry into effect the ordinary powers of the corporation. These terms are used in contradistinction to *extraordinary expenses*, which would be a necessary means of carrying into effect *extraordinary powers*. Under the rule above laid down, the implied and incidental powers of corporations must be classed as ordinary powers, because they pertain to all corporations, unless they are taken away by legislation. Under the same rule, it is only powers expressly granted that can properly be styled extraordinary; and hence, extraordinary expenses are those which are incurred in carrying into effect *express and extraordinary powers*. These principles result necessarily from the rules universally observed in construing the powers of corporations." 31 Ala. 549-550.

In the cases of *State, ex. rel. Branch v. Leapheart*, *State Treas-*

urer, 11 South Carolina 458, one of the questions presented was, whether interest on the State debt was an ordinary expense of the State government.

The Legislature of South Carolina was authorized to levy a tax and appropriate money for the purpose of meeting the "ordinary expenses" of the State government. One of the questions presented was whether interest on the State debt was embraced in those terms.

The court, in its opinion, said :

"Obviously, such an act can only be regarded as a general annual tax levy for 'ordinary expenses', and, as such, the legislature may control, at any time, the disposition of the funds raised under it; subject to the proviso already stated, namely, that such appropriation must be of the nature properly described as 'ordinary expenses of the government.' " P. 472.

This Act, which included an appropriation to cover interest on the State debt was sustained.

The point necessarily decided was clearly put in the concurring opinion of Judge Haskell, as follows:

In his opinion, among other things, Judge Haskell says:

"When bonds have been issued to raise money to meet an 'extraordinary expenditure', they become a standing liability of the State, and the interest, as it falls due becomes an 'ordinary expense', to be included among the 'estimated expenses' to make up the amount to be levied annually and appropriated annually." P. 477.

The only other case in which any question as to whether interest on the public debt is a part of the ordinary expenses of the debtor government which I have seen is "*In re Limitation of Taxation.*" Opinion by the Supreme Court of South Dakota, 54 N. W. R., p. 417.

The question in that case turned entirely on the construction of a section of the State Constitution, and its decision can have little if any bearing upon the question as it is presented here. The court, however, say that:

“The ‘ordinary expenses’ of the State are practically defined in Sec. 2, Art. 12 of the Constitution, and are the ‘ordinary expenses of the executive, legislative, and judicial departments of the State, the current expenses of the State institutions, *interest on the public debt*, and for common schools.’ ” P. 419.

Let us now briefly apply the foregoing principles to the various items of this account to which the defendant objects.

1. Tobacco Receipts, \$353,123.96. R. 515 and 627-8-9.

This is not an item of expenditure, but of money paid into the State treasury on account of revenue derived from a number of tobacco warehouses.

It is claimed by Virginia that it should not be brought into the account at all on either side. It is claimed by West Virginia that it ought to be deducted from the aggregate of expenditures.

The State owned a number of these warehouses in which tobacco was stored and inspected for certain charges. The above sum represents the net revenue derived by Virginia during the prescribed period from these warehouses after paying the salaries of inspectors and commissioners, and the expenses of the warehouses. This item is entirely excluded from the account by the accountant for Virginia, for the reason (1) that no charge whatever was made for the costs and expenses of the warehouses, and (2) that none of these warehouses were in West Virginia counties.

If any of the warehouses had been in West Virginia counties, it would probably have been proper to have given a credit for all money paid into the State treasury from those warehouses, under paragraph 6 of the decree; but there can, so far as I can see, be no propriety in bringing this item into the account directed by paragraph 4; nor has it any place under paragraph 6, for the reason that none of this money was paid into the State treasury from West Virginia counties.

For statutes in reference to Receipts from Tobacco Warehouses, see Appendix, pp. 157-159.

2. Cost of Constitutional Conventions.....\$258,906.28

This was a normal, usual, lawful, appropriate, and under the

conditions of Virginian and American political institutions and political life, a necessary and though not a regularly and periodically recurring expenditure, not an extraordinary one.

There have been eight Conventions in Virginia. (1) The Revolutionary Convention of 1776, which adopted the first Constitution for the Commonwealth; (2) The Convention of 1788, which ratified the Federal Constitution; (3) That of 1829-30, which framed the Constitution of 1830; (4) That of 1850-51, which framed the Constitution of 1851; (5) That of 1861, which adopted certain amendments to the State Constitution, and the Ordinance of Secession; (6) That of 1864, known as "The Alexandria Convention," which adopted the Constitution of 1864; (7) That of 1868, which framed the Constitution of 1869; and (8) That of 1901-2, which adopted the present Constitution of the Commonwealth.

Of these Conventions, four assembled before 1861, one in the year 1861, and three since the formation of West Virginia.

The cost of a Constitutional Convention is as essential an expense of a State, as often as important changes in her Constitution are found necessary as are the more frequent sessions of her Legislature. Both involve expenses which are none the less usual and ordinary in civilized free States because one of them is of less frequent recurrence than the other.

Upon the facts, and according to the precedents, the cost to the State of a Constitutional Convention may be fairly considered as an "ordinary" State expenditure. Appendix, 159, 161.

3. Slaves transported and executed.....\$311,163.35

These were regular charges upon the State treasury, fixed by statute, and were just as much a part of the ordinary expenses of the State government as were any other items of criminal charges. Appendix, 161-163.

4. State Boundary Lines.....\$16,704.78

These were necessarily recurring expenses incurred by the State in marking and establishing the boundary lines between Virginia and adjacent States under the statutes printed at pp. 166-171 of Appendix. Just as such an outlay is a necessary and ordinary

cost to be incurred by an individual owner of large boundaries of land, so it was a proper and necessary expense of the State.

5. Cost of Maps of the State.....\$28,074.52

These were regular legitimate expenses incurred by the State under the Acts of 1825, 1828, 1848 and 1853. Appendix, pp. 172-75, in printing and furnishing maps of the State to the State officials, and for the use of the Board of Public Works and the State Engineers in connection with projecting and building lines of roads and turnpikes and railroads in carrying out the internal improvement system adopted by the Commonwealth.

They were the usual, regular, and under the conditions existing in Virginia, ordinary, though not annual, expenditures of the State government.

- | | |
|---|--------------|
| 6. Deaf, Dumb & Blind Institution 1845-60, | |
| total expenditure..... | \$ 80,661.94 |
| Appendix, 176-185. | |
| 11. Virginia Military Institute, total expendi- | |
| ditures | 151,000.00 |
| Appendix, 212-217. | |
| 12. University of Virginia..... | 25,000.00 |
| Appendix, 217. | |
| 13. Improvements to Capitol Square..... | 1,451.91 |
| Improvements to Capitol Square..... | 12,278.47 |
| Appendix, 218-219. | |
| 14. Penitentiary lot and hospital..... | 13,947.48 |
| Appendix, 221. | |
| 17. Medical College of Virginia..... | 25,000.00 |
| Appendix, 223. | |
| 19. Eastern and Western Lunatic Asylums, ag- | |
| gregate expenditures..... | 344,295.57 |
| Appendix, 224-246. | |

These expenditures are of the same general character. All of them except repairs and improvements to the Capitol Square were for the repairs, improvement, enlargement and equipment of educational and eleemosynary and penal institutions wholly owned by the Commonwealth and established and maintained for the common benefit of all of her citizens. These institutions are the usual

and ordinary, and, under the teachings of any Christian or humane civilization, the necessary means adopted for the education of the children of the State, for the relief of the dependent and afflicted, and for the punishment and prevention of crime. The original cost of buildings erected for the use of these institutions has not been charged, as it might properly have been charged, and as it would be right to now embrace that item, in the account; but only the cost of improvements, additions, enlargements, equipment, necessary additions and betterments such as heating apparatus, plumbing, water supply, etc., etc., have been charged.

These items are all controlled by substantially the same facts, considerations, and principles, were all the usual and necessary expenditures upon institutions already established, and were we submit, clearly ordinary expenditures of any State, not made up of barbarians.

7. International Exchanges.....\$2,836.19

This was an expenditure in connection with the postage or express and cost of books and periodicals, reports, and other literary matter exchanged for valuable works of art by the government of France with Virginia. They are proper expenditures in connection with the maintenance of the State Library, an important educational institution of the State. Appendix, 185.

8. Overpayment of treasury notes.....\$ 50.00
 9. Printing of treasury notes (Appendix, 186)..... 375.74
 10. Loss on account of counterfeit money..... 190.00

These were all expenditures or losses incident to the administration of the State finances such as are experienced by all governments; and under the practice in Virginia were ordinary though infrequent expenditures. As much so, though not so regular as the cost of collecting taxes at the time these expenditures were made.

14. Fugitive slave expenses and rewards.....\$2,201.00

These were frequently recurring outlays pursuant to statutes, and were ordinary expenditures under the existing conditions.

16. Calling out militia at Wheeling in 1836.....\$ 1,099.00

That was a case in which the militia were called into service in support of the civil authorities, a very necessary and ordinary expense of government, the payment of which was provided for by the Act of April 7, 1838. Appendix, 222.

18. Attorney-General's fee in prosecuting claim of the Commonwealth vs. Selden, Withers & Co.\$ 500.00

That was a necessary and proper expenditure in connection with a suit brought by the State to recover a balance due by Selden, Withers & Co., who had been agents of the State, and who were indebted to the State in a large sum. Such outlays are usual, necessary, and ordinary expenses of government.

20, 21 and 22. Gun houses at Alexandria, Surry
\$ 900.00
and Richmond..... 110.00
1,079.00

\$ 2,089.00

For more than seventy years after the American Revolution, Virginia maintained a military establishment. For most of that long period she was getting ready for war—not a civil war, but war with some foreign nation. The apprehension, after the War of 1812-15, was for many years that there might be another armed conflict with Great Britain and Virginia wanted to be ready to aid efficiently in the defense of the country. During all of that period a martial spirit pervaded her people, and they expended large sums in providing arms and munitions of war and in organizing her militia. These particular expenditures were incurred to provide shelter for the guns, a necessary and a usual expenditure in connection with the maintenance of a military establishment, and in carrying out the settled uniform and patriotic policy of the State during the decades covered by this inquiry.

These were expenses incurred in connection with keeping up the military establishment of the State, and were presumably neces-

sary and proper, and among the ordinary expenses of government.

23. Sundry Board of Public Works expenses.....\$36,728.50

The Board of Public Works was from 1816 a regular integral part of the State Government, as much so as any other official or official body, and its expenses were regular, usual and ordinary expenses of the State government.

24. Interest on the Public Debt.....\$18,574,747.84

There was no expenditure of the State government from 1823 to 1861 which was more regular, certain, and ordinary than the annual interest on the public debt of the State.

If this was not an ordinary expense of that government then there were no such expenses.

As has been shown, all governments, and all authorities, and all expert accountants and statisticians, so far as I have been able to ascertain, agree in classifying the interest on public debts as among the ordinary expenses of government.

It is to be assumed, though the assumption may possibly be a violent one, that the framers of the Wheeling Ordinance intended to do equity. At all events a court of conscience will not put an unconscionable construction upon that enactment, particularly where a natural and reasonable construction can be given to it, and one which will tend to an equitable result.

Now, if the language of that Ordinance, and of Paragraph 4 of the Decree predicated upon it, be construed not to require the new State to be charged with its just proportion of the regular and ordinary expenses of the State in the matter of the payment of interest on the common public debt, then West Virginia would be given credit in the account for all of her contributions to the treasury of the Commonwealth on account of said interest charges from 1823 to 1861, and yet she would not be charged with her aliquot just proportion of those same expenditures.

It is not to be presumed that such an unjust provision was intended to be made by the framers of the Wheeling Ordinance. Nor can it be given such effect without a strained, unreasonable and unwarranted construction of the language used in the Ordinance and in the decree.

The decree requires West Virginia to be charged with a just proportion of the ordinary expenses of the government, and this requirement will not be satisfied if the largest, the most important, and among the most regular necessary and ordinary of those items of expenditure are omitted from the account.

25. *The expenditures actually made in West Virginia counties, for the education of indigent children therein:*

As we have already seen, the plaintiff has placed these items of expenditure in the account directed by paragraph 3 of the decree, for the reason that the Special Master is expressly required by the terms of that paragraph to embrace in the account which it defines, "All expenditures made by the Commonwealth of Virginia within the territory now constituting the State of West Virginia since any part of the debt was contracted;" and all of the items of expenditure charged by the plaintiff under this head as shown on page 3 of Joint Exhibit C-1, R. 374, and by the evidence in support thereof, R. 419, 421, 424, and Appendix 147, 148 and note to page 147 were actually made distinctly in West Virginia territory, were specifically located in that territory and could be located nowhere else.

Now the defendant for an obvious purpose not in harmony with the decree, or with the language or with the scheme of the Wheeling Ordinance, insists upon excluding the sums thus *actually expended* in West Virginia, from the account directed by paragraph 3, and upon embracing in the account directed by paragraph 4 of the decree, *not the sums actually expended in West Virginia counties, but if anything at all, a sum to be computed or worked out or estimated upon some artificial basis of calculation*, which, as we would know in advance, might not lead to a correct result, and which we find when the calculation is made on that basis, actually leads to a result palpably incorrect, and fallacious to the extent of \$174,956,64, the difference between the actual sum of these expenditures as shown by the plaintiff's account (Joint Exhibit C-1, p. 3), and the estimated amount thereof as shown by the figures of defendant's accountants in their account at page 1 of Joint Exhibit D-1.

In the first place; why disregard the unqualified language of paragraph 3 of the decree, which, following the text of the Wheel-

ing Ordinance, directs "*All expenditures*," made by the Commonwealth in West Virginia counties to be charged against West Virginia?

In the second place; why resort to any scheme of conjecture and guessing to find out what sums were expended in West Virginia under this item, when, as is not only proved, but conceded, the records of the Commonwealth show precisely what sums were actually so, and there, expended?

Defendant's counsel in their contention upon this point, have ignored, or misapprehended, the language of the decree, and the language and the scheme of the Wheeling Ordinance also.

The decree imperatively requires that accounts shall be taken to "*ascertain*": first, *all* sums which were expended by Virginia in West Virginia territory after any part of the debt was contracted, on any and every account whatever, whether ordinary or extraordinary expenditures; and second, such additional amount as would be the just proportion of the ordinary expenses of the State government properly chargeable to West Virginia counties, not included in the items already required to be charged to West Virginia.

This is in accord also with the manifest scheme and intentment of the Ordinance, which required the new State to be charged with "*all of the State expenditures within the limits thereof*", and in addition thereto with a just proportion of the ordinary expenses of the State government.

It may be, and undoubtedly is true, that the State expenditures which were distinctly made in West Virginia territory were some of them ordinary expenses of the State, but that made no difference in making up the account under that provision of the Ordinance, for it required "*All*" State expenditures made in that territory to be charged.

When we come to interpret and apply the next clause of the Ordinance, if we were disposed to resort to the literalism in construction which characterizes the contentions of opposing counsel, we could insist, and with far more justification than their view can be urged, that by the language of the Ordinance and the decree also, West Virginia must be charged 1° with all State expenditures in her midst of whatever description; and 2° in addition thereto with her just proportion of the ordinary expenses of the State government.

But while this is the effect both of the decree and of the Ordinance, taking their language literally, the plaintiff does not urge any such construction, because we do not consider that it would be a fair construction for the reason that it would result in some instances in making a double charge against West Virginia on account of the same expenditure.

What the decree and the Ordinance fairly construed mean is that the new State shall be charged: first, with all State expenditures in her midst, and second, with such proportion of the ordinary expenses of the State government, not including items already charged, as was properly assignable to the counties which were created into the State of West Virginia, &c., &c.

It was clearly the purpose and scheme of the Ordinance upon which the decree in this aspect, is predicated, to charge the new State primarily with all expenditures made by the Commonwealth within the limits thereof, and then with such proportion of all other expenses of the State government, not of an extraordinary character, which could not be distinctly allocated to West Virginia.

To be apportioned "on the basis of the average total population for the period with and without slaves as shown by the census of the United States."

In apportioning the ordinary expenses according to the average population in Virginia, the defendant has gotten the average for the whole period, and made the apportionment accordingly.

The plaintiff has ascertained that average by decades. See Exhibit "D-1," page 2, R. 516.

The method adopted by plaintiff's accountants is plainly right.

The purpose of the court was doubtless by requiring the average of the population to be struck, to get as nearly to the true population year by year and for the very year in which the expenditures to be apportioned were made, as was possible. It is manifest that this can be more nearly attained by getting this average for each decade.

For instance, the average population for the decade from 1830 to 1840 could be fairly ascertained by taking the population as determined by the census year 1830, and in the census year 1840, and dividing this sum by two, and so as to each of the other decades. And this has been done accordingly.

In no other way can an approximation to the truth be reached, and it is the truth which the court and which we all wish to attain.

V.

The 5th inquiry directed is as follows:

That the Special Master will ascertain,

“5. Such proportion of the ordinary expenses of the government of Virginia since any of said debt was contracted, as was properly assignable to the counties which were created into the State of West Virginia on the basis of the fair estimated valuation of the property, real and personal, by counties, of the State of Virginia.”

A correct response to this inquiry may be more important as supplemental to the inquiry directed by the second paragraph of the decree, than in connection with the accounts directed by this and preceding paragraph. At all events, an accurate answer to this inquiry will have an important bearing upon the broad equities of the case.

It will be noted that this 5th paragraph fixes no date as of which the fair estimated value of the real and personal property in the counties constituting Virginia, and those now constituting West Virginia, shall be ascertained.

The 2nd paragraph fixes the 20th of June, 1863, the date on which the dismemberment of the old State and the formation of the new State were consummated, as the date for the ascertainment of the assessed valuation of the lands embraced in the two States, and that date is presumably the one contemplated by the 5th paragraph. At all events, that would seem to be the logical and proper date for this accounting.

It will be recognized as true that the accurate ascertainment of the value of the real and personal property in a State is an exceedingly difficult problem at any time.

Because of the conditions of disaster, confusion, loss, and destruction of values occasioned by the ravages of the then pending war, the difficulty of a just solution of this problem is here greatly enhanced.

And yet an approximation to a fair and just result can, and

we believe has been, reached as nearly as is possible under the circumstances, by proceeding along the lines of investigation and testimony which have been pursued on behalf of the plaintiff.

The land assessments afforded if not probably approximately fair criterion, yet they furnished the only now accessible standard of the value of the lands in the counties of Virginia in 1860; but those valuations were made in 1856, some years before at least four-fifths of the present territory of Virginia, and one-fifth of the present territory of West Virginia, had been ravaged and desolated by war, so that that valuation afforded no just measure of value whatever in 1863.

It became necessary therefore to find some way in which the inequalities, and destruction of values occasioned by the war could be determined and brought into the account.

The lands were assessed as of their cash specie value in 1856. The personal property in the Virginia counties was assessed annually in the spring of each year as of its then cash value as of February 1st in each year, in the currency which then constituted the only medium of exchange, and standard of value in Confederate Virginia, and after war became flagrant and the depreciated currency of the Confederate States became the measure of value in use in the territory dominated by the Richmond government, the currency in which all the daily commercial transactions of the people were conducted, and in which their taxes were paid, personal property was generally assessed with reference to Confederate States treasury notes as a standard of value.

In order therefore to get at the true cash value of personal property so assessed in 1863, it is necessary to apply the scale of Confederate money as of February 1st in that year, which we find to have been 4 to 1. That is it took \$4.00 of Confederate paper to buy \$1.00 in specie in February, 1864. (See scale of Confederate money approved by the courts of Virginia, R. 647.) The personal property in the West Virginia counties then within the Confederate lines, where assessments were made by officers under the Richmond government, was valued in the same way.

The personal property in West Virginia counties outside of the Confederate lines, where assessments were made by officers under the Wheeling government, were valued with reference to United States treasury notes (green backs) as a measure of value. The true value of this assessed personal property could be ascertained

proximately therefore by applying the scale of gold to the assessment in each case.

The difficulty in getting the value of the personalty was in a number of Virginia counties which were so ravaged in 1863, and so harried by war that no assessments were made in them of the very small quantity of personal property which was then left there.

In those ravaged counties where no assessment was made in 1863, it would be within limits to estimate the personal property remaining in 1863 as not worth more than one-fourth the assessed value of the personal property in those counties in 1860, or 1861.

As to real estate it was by no means an easy matter to get at its true value in 1863, and yet a way has been found by which this has been reached as nearly as is now possible.

A number of witnesses of unusual intelligence, of the highest character, and most of whom had the best opportunities for ascertaining the facts as to the matters in respect to which they testified, were called on behalf of Virginia. Their testimony will be found at pp. 739 to 786 of the record. By them the great destruction and deterioration in the value of the real and personal property in Virginia in June, 1863, is satisfactorily proved, and the fact that the lands had been diminished in value at least one-half as compared with their value in 1860 or 1861, established.

This general testimony is powerfully confirmed by the proof of a large number of concrete facts and transactions, proof of actual sales of land in 1863 in Confederate money, and of the valuation by sworn and intelligent commissioners or appraisers of houses and lots in the City of Richmond in the spring, or in June, 1863.

For instance, Captain Gordon McCabe testified, R. 784, that Westover, an estate for which the owner to his personal knowledge had refused \$75,000.00 in 1859, was sold in 1863 by him for \$60,000.00 in Confederate money worth then not more than \$15,000.00 or \$20,000.00 in specie; and by Major Wellford, R. 762, that he was offered the Moss Neck Estates on the Rappahannock River, an estate worth \$40,000.00 at least before the war, in the fall of 1863 for \$100,000.00 in Confederate money worth about \$7,000.00 in good money; and by Mr. Jno. B. Lightfoot, Jr., a number of most informing and significant facts were proved, which are set forth in the tabulated statements. R. 653-654, 655, 656, 657, 658, 659, 661, 662, 663, and 664, which furnish the proof of a number of

contemporary sales of lands in Richmond city, Henrico, Hanover and Chesterfield counties in 1863, at prices averaging about 60% of the ante-bellum assessed value of those same properties.

And note these were not selected transactions, but Mr. Lightfoot took all of the transactions of that character which took place about that time of which the records of those counties and of Richmond City furnished any evidence as to lands then sold or valued, in Confederate money, the assessed value of which in 1860 or 1861 could be ascertained.

This evidence of these concrete facts taken together with the testimony of the eight witnesses, fully supports the claim of the plaintiff that the personal property of Virginia including slaves was not worth in good money more than one-fourth of its assessed value as of June, 1863, in Confederate money; and that the value of the houses and lands and real estate in Confederate Virginia in June, 1863, was not worth more than one-half its assessed value as it was assessed in 1856, and as it stood on the land books.

The same things were true as to real and personal property in Jefferson, Berkeley, Morgan, Hampshire, Hardy, Pendleton, Pocahontas, Greenbrier, Monroe, and Mercer, the West Virginia counties which were usually dominated by the Confederate forces and were generally within the jurisdiction of the Richmond government.

The statement of the estimated value of the real and personal property in the two States on this basis will be found at pages 2, and 3 A of Plaintiff's Exhibit "E-1," R. 640.

In the statement on page 2 of E-1 the slaves are excluded because the emancipation proclamation of Mr. Lincoln was then, by its terms, effective, and they became free wherever the Federal lines were extended. Large portions of the State were within the lines of the Union armies. There the slaves were free at their pleasure. Within the Confederate lines slaves as property were held by such a precarious tenure that they were worth only nominal sums in June, 1863. They surely constituted at that time no property basis upon which to hypothecate a charge for any public indebtedness of the State.

They already were more than half free, and by crossing into the Federal lines could become absolutely free.

But if for any reason these views should not be approved by the Master or the court, Virginia has filed an alternate statement page

3 A of Exhibit E-1 showing the fair estimated value of the property in the two States in June, 1863, in which alternate statement the slaves in both Virginia and West Virginia are included at one-fourth their assessed value,—all the real estate in Virginia being also estimated as of an actual value in *good money* of one-half of its assessed value. Property in the Confederate counties of West Virginia, is estimated in the same way, and the slaves in West Virginia at one-fourth their assessed value. The real estate and personal property in the residue of West Virginia dominated by the Union arms is estimated at its assessed value, except that the depreciation of United States Treasury notes, which constituted the measure of value in the West Virginia Counties controlled by the Wheeling government and the Federal arms, is brought into the account as would seem to be fair and just.

These alternate statements will be found on pages 3 and 3 A of Plaintiff's Exhibit "E-1", R. 641.

In contrast with these statements we have Defendant's Exhibit "E-1", p. 4, which takes the ante-bellum assessment of real estate in Virginia, and makes no deductions for the enormous depreciation occasioned by the war, and actually takes the inflated Confederate assessments of the personal property in the State, which was much higher than it was before the war, although at least half the personal property had been destroyed or consumed, and what was left had greatly decreased in actual value. The defendant also takes the inflated Confederate assessments of the slaves, who also were assessed in Confederate money much higher than they were before the war, although Mr. Lincoln's emancipation proclamation had already become effective wherever the Union lines were extended. A large part of the State was within those lines, and the value of the slaves were nominal even where Confederate domination was strongest.

The schedules upon which Virginia relies are printed at pages 640 and 641, as page 3 A of Exhibit E-1. The latter is relied on if slaves are to be brought into the account.

The schedule and the alternative schedule, including slaves, which Virginia submits under this head, necessarily give approximately only the value of the real and personal property in the counties respectively-constituting the two States, in June, 1863, in the one with, and in the other case without, slaves; but under the

circumstances as they then existed the schedule including slaves, gives an approximation which is liberal to West Virginia.

VI.

The 6th paragraph directs the ascertainment of,

“6. All moneys paid into the treasury of the Commonwealth from the counties included within the State of West Virginia during the period prior to the admissison of the latter State into the Union.”

The statements and claims of plaintiff and defendant respectively under this head, are shown upon their Joint Exhibit “F-1”, R. 805.

The items upon which they disagree amount to \$1,096,766.99. The items as to which they agree aggregate \$5,954,395.66.

(1) The first item of difference is that of the bonuses received by the Commonwealth from the banks chartered in West Virginia. This was in the nature of a charter fee. It was not paid by West Virginia counties, and did not come from West Virginia counties, but from these corporations as an initial price or entrance fee paid by them to the Commonwealth for the authority which she gave them to be a corporation.

(2) Dividends from banks in West Virginia counties.

These are objected to by the plaintiff on the ground that these dividends are in no proper sense “moneys paid into the treasury of Virginia from West Virginia counties.” They are the profits earned by money which Virginia has invested in the banks, returns made to Virginia upon those investments, and not moneys paid to Virginia from West Virginia counties, within the meaning of the 6th paragraph of the decree, and of the 9th Section of the Wheeling Ordinance upon which that paragraph of the decree is based.

(3) I have the same comment to make upon the various items of dividends from bridge companies, turnpike companies, and turnpikes. None of them were payments by or from West Virginia counties, or in any sense contributions from those counties; but they were the legitimate earnings from the State’s own money invested in those properties. It happened to be invested in West Virginia, but those earnings cannot be reasonably claimed to have

been payments into the treasury of the Commonwealth from West Virginia counties, as a set-off to moneys paid out by the Commonwealth for the benefit of those counties, or on account of those counties, as integral parts, and distinct political sub-divisions of the Commonwealth.

VII.

The 7th paragraph of the decree directs the Master to ascertain:

4. "The amount and value of all money, property, stocks and credits which West Virginia received from the Commonwealth of Virginia, not embraced in any of the preceding items and not including any property, stocks or credits which were obtained or acquired by the Commonwealth after the date of the organization of the restored government of Virginia, together with the nature and description thereof."

Under this head, plaintiff's Exhibit "G-1" merely charges West Virginia with the cash which that State received from Virginia after the formation of the new State.

These payments amount to \$170,771.46. This is the only charge Virginia makes against West Virginia under the 7th paragraph of the decree, but if the money invested by Virginia in Banks in West Virginia and appropriated to the Town of Bath for building a turnpike are not charged under paragraph 3, they should be charged under paragraph 7.

There was a large amount of other property, chiefly unappropriated or abandoned land, and delinquent and forfeited lands to which the Commonwealth had title, which passed to the new State by the Act of the Wheeling Legislature of February 3, 1863, but it has been ascertained that West Virginia recognized the land warrants issued by Virginia prior to June 30, 1863, and has allowed them to be used in the acquisition of vacant and unappropriated lands in the new State to the extent of many thousand acres; that the new State received nothing from those lands. This has been done although the entries were made and the warrants located upon those entries since the formation of the new State.

It has been impracticable, if not impossible, also to find any satisfactory records of the disposition which has been made by the

new State of the lands delinquent and forfeited to the Commonwealth prior to June 20, 1863, for non-payment of taxes, or for failure to enter the same upon the land books for taxation, and that inquiry has therefore not been pressed.

So that the only charges made by Virginia under the 7th paragraph of the decree are for money actually received by West Virginia in 1863 and 1864.

West Virginia has filed an elaborate schedule under the 7th paragraph of the decree, the relevancy and pertinency of which I confess I do not understand.

The only public act which prescribes the mode in which West Virginia shall account for the money expended by the Commonwealth in West Virginia counties in the construction of bridges, roads, turnpikes, dams and locks or other improvements in rivers, or in banks, is the 9th Section of the Wheeling Ordinance which requires that West Virginia shall be charged with all the State expenditures of whatever character or description or for whatever purpose made, which were made by the Commonwealth within any of the counties constituting the new State after any part of the debt of the Commonwealth was contracted.

All of these bridges, turnpikes, roads, river improvements and banks mentioned in Defendant's Schedule "G-1" which represent expenditures made by the Commonwealth in West Virginia territory between March 19, 1823, and January 1, 1861, have been "embraced in preceding items."

There is one large item in this Schedule "G-1" of the defendant which can have no business there, or in any exhibit or account filed in response to any of the paragraphs of the decree. That is the item of \$9,542,044.30 on account of investments made by Virginia in the James River and Kanawha Canal.

Not one foot of that canal is in West Virginia, nor did any part of the canal as built or partially built lie very near the lines of that State. Its works were wholly within the territory now constituting the Commonwealth of Virginia.

It is true that the Kanawha Board, and the improvements in the Kanawha River had some connection with the James River & Kanawha Company, but the expenditures upon those improvements in West Virginia were as we have already seen, all made by the State, a large part of them before the organization of the James River & Kanawha Company in 1835, and other parts of them in

the fifties and in 1860 through the Kanawha Board, but all with the funds of the Commonwealth.

The inclusion of the very large outlay made by the Commonwealth in the James River & Kanawha Canal in this Defendant's Exhibit "G-1" as being in any sense responsive to the 7th paragraph of the decree, is but added evidence that the defendant's accounts have wholly misapprehended and confused the meaning, purpose, and scope of the inquiry directed by that clause of the decree.

The defendant has filed an elaborate schedule, entitled "Summary of Cash Receipts and Disbursements of the Commonwealth of Virginia, from March 19, 1823, to January 1, 1861", the precise relevancy and pertinency of which I do not apprehend.

While this paper in some of its statements is strongly confirmatory of the contentions of the plaintiff, it is not responsive to any direction of the decree, or to any issue in the cause, and tends to confuse those issues.

So far as it states facts as to actual expenditures made by Virginia in West Virginia, it is merely corroborative of proofs already in the case, and unnecessarily encumbers the record. So far as it states any other facts, it is irrelevant.

Conclusion.

I have now completed my review of the questions presented by this exceedingly complex, but exceedingly interesting case.

It has necessarily been somewhat tedious, and protracted, for the questions considered are not only numerous, but some of them are novel, and some of them of very great importance.

Of most of them, and particularly of those of the greatest moment, it may be fairly claimed that any apparent difficulty in their solution disappears when they are considered in the light of the precise language of the decree, and the Wheeling Ordinance, of conceded or established facts in the record, and of the simplest principles of construction.

When so considered, the main propositions contended for by Virginia can scarcely be regarded as any longer debatable.

IN THE
Supreme Court of the United States

VIRGINIA
v.
WEST VIRGINIA.

Argument of John B. Lightfoot, Jr., on Behalf of the Plaintiff, Before
Special Master Charles E. Littlefield.

NOVEMBER 6, 1909.

The hearing was resumed pursuant to the taking of recess.

ARGUMENT OF JOHN B. LIGHTFOOT, JR., ESQ., ON BE-
HALF OF THE COMMONWEALTH OF VIRGINIA.

AFTER RECESS.

If your Honor please, I shall not attempt, nor is it contemplated that I should undertake, to discuss this case in all its phases. I shall only undertake to discuss Paragraph 3 of the decree in particular, and make slight reference to some features of Paragraph 5. In fact I shall not go elaborately into detail under Paragraph 3, but shall endeavor by placing your Honor in possession of the facts and circumstances of contemporaneous history to enable you to deal

more intelligently with the widely variant views which plaintiff and defendant respectfully entertain as to the proper construction of paragraph 3 of the decree, and the relation of that paragraph to paragraph 7, and to support the position in this regard upon which Virginia insists.

The State of Virginia in preparing her case through her counsel has construed Paragraph 3 of the decree of the court, which says that all expenditures within the defined period and territorial limitations shall be charged to the State of West Virginia—to include *all* expenditures, and she interprets the disbursements made for the improvement of the road system of the old Commonwealth by and through the medium of joint stock corporations to constitute an “expenditure” not only within the intendment and original meaning of the Wheeling Ordinance, but within the intendment, and meaning, and construction of Paragraph 3 of the decree; as such expenditures they appear in her accounts as charges against the defendant.

The defendant, on the other hand, does not agree that such disbursements were “expenditures,” but attempts to classify them as investments for profit, and under Paragraph 7 of the decree (based on the Act of Feb. 3, 1863) holds herself liable only for the market value of the certificates of stock as of January 1, 1861.

That such a position does violence to a conscionable interpretation of both the ordinance and the decree, I trust to make apparent to your Honor’s mind.

The effect of these differences upon the accounts is set out on page 1 of Joint Exhibit C-1, under what is there designated as Group 2, this being a summarized statement of expenditures through joint stock bridge, navigation and turnpike companies, the banks, and the Town of Bath. As the case of the turnpike companies clearly illustrate the principle involved, I shall deal with them.

In studying the origin and development of the internal improvement plans of old Virginia I find that the policy which the State pursued with reference to its internal improvements, and that the construction of that policy by those whom the State placed in charge of her internal improvement fund, and by those who conceived the policy of internal improvements, so happily coincides with the views which Virginia’s counsel have taken of this matter, that I shall read to the court extracts from the public records of the State, which constitute in fact the history of the internal improvement policy of the State of Virginia practically from the inception

of that policy, and which, to my mind, demonstrate that these disbursements through corporate channels were "expenditures," and that defendant's classification is forced, strained and unnatural. I read these in order that the Court may, from its knowledge of the contemporaneous history and by the light in which those who conceived them viewed these expenditures, conclude with Virginia's counsel that such disbursements on turnpikes, navigation companies, etc., constituted "expenditures" within the true meaning and intendment of the term. Your Honor has followed this case in sufficient detail to know that as a matter of general history the internal improvement policy of the old Commonwealth of Virginia went back to a time to which the memory of man runneth not to the contrary. But I find in the published reports of the Board of Public Works, and I now read from Volume 1, at page 43, what I consider to be the very life-germ of the *fund* for internal improvement, the establishment whereof was the practical application of the theoretical conception. It is the Report made to the legislature of the old State by the committee of that legislature on Roads and Internal Navigation.

Mr. Spooner: What is the title?

Mr. Lightfoot: The title is, "Report of the Committee on Roads and Internal Navigation to the General Assembly," submitted December, 1815. The report itself will show in terms that it is in response to a clause in the message of Governor Nicholas—the then Chief Executive of Virginia.

Although this report is not so abbreviated as those which are formulated in the hurry of our modern days, yet I deem it to be of such primary importance that I shall read it, most of it, in this argument.

(Reading):

"Whatever difference of opinion may have at any time existed as to the expediency of controlling the voluntary direction of the wealth and the labor of individuals by the application of legal constraint, there never has existed a doubt but that it is the duty as well as the interest of every good government to facilitate the necessary communication between its citizens.

"Next to the enjoyment of civil liberty itself, it may be questioned whether the best organized government can assure

to those for whose happiness all governments are instituted, a greater blessing than an open, free and easy intercourse with one another by good roads, navigable rivers, and canals. Their tendency, by extending commerce, to promote the agriculture and manufacture of a nation and thereby to augment its wealth and population, is too obvious to require much illustration.

“The planter and farmer realize their share of this benefit, in the augmented value of their lands; the manufacturer and the merchant, in the increased and diversified demands for their industry and capital. Nor are the higher interests of society less indebted for their advancement to the multiplication and improvement of these channels of useful intercourse. They afford the means of exploring the natural resources of a country and invite the genius of speculation to fit them for the uses of man. Lands too remote from markets to tempt cultivation; forests, hitherto regarded as inaccessible; beds of minerals and fossils unknown or neglected, are brought within the reach of ordinary enterprise and rendered subservient to the convenient comfort of the citizen or to the defense and safety of the State. They confer on an extended empire the promptitude and energy of action, which are considered peculiarly characteristic of one of narrow dimensions; since without contracting the limits of its territory they reduce the distance and expedite the communication between the seat of its government and its remotest extremities.

“Whether the public force is to be spread out for defence or combined for attack, they alike contribute to the rapidity and vigor of its operations.

“In a republic, especially, where public opinion exerts a controlling influence, and public virtue should be the spring of all public action, they may be considered an important auxiliary, if not a necessary ingredient of public liberty. They tend to diffuse more equally the knowledge which experience acquires and the leisure which wealth alone can purchase; they strengthen the cords of social union and the quick and generous feeling of patriotism, which is ever ready to exclaim at the contemplation of an extended scene of public improvement, ‘I love my country because she is worthy of my affection.’

“The duty, which is obligatory upon all governments, is peculiarly incumbent upon one, whose territory like that of

Virginia, nature has done so much both to unite and separate—to whom she has presented so many advantages to improve and so many obstacles to overcome.

“No State of the Union is intersected by so many navigable rivers or divided by so many chains of lofty mountains; none perhaps abound with such happy varieties of climate and soil, so many resources for internal commerce. In her coal, iron, lead, tin and salt, she is unrivalled. Her tobacco and grain command the highest prices abroad. The fertile banks of her rivers and the moist valleys of her mountains yield abundant crops of flax and hemp. Her lowlands would supply her with cotton for her own consumption, and the fleeces of the flocks which pasture on her hills are not surpassed in quality.

“Notwithstanding these advantages, the principal part of her commerce and almost the whole of her navigation, pass out of her hands to enrich the coffers of her neighbors. There is scarcely a village to the west of the Blue Ridge and very few above tidewater, from the Roanoke to the Potomac, which derive any part of their supply of manufactured commodities, either foreign or domestic, from the seaports of Virginia.

“While many other States have been advancing in wealth and numbers with a rapidity which has astonished themselves, the ancient Dominion and elder sister of the Union has remained stationary.

“A very large proportion of her western territory is yet unimproved, while a considerable part of her eastern has receded from its former opulence.

“How many sad spectacles do her lowlands of wasted and deserted fields present! Of dwellings abandoned by their proprietors! of churches in ruins! The genius of her ancient hospitality benumbed by the cold touch of penury, spreads his scanty board in naked halls, or seeks a coarser but more plentiful repast in the lonely cabins of the West. The fathers of the land are gone, where the outlet to the ocean turns their thoughts from the place of their nativity and the affections from the haunts of their youth. Beyond the Alleghanies an unexpected revolution threatens the Atlantic States in general, the accomplishment of which will create new interests and views in that flourishing and important section of America, and probably, for them, the hope of reuniting it by commercial ties to the markets of the East.

"If it be true, as your committee confidently believe, that in a connection between the Roanoke, the James, and the Potomac, with the waters of the Kanawha or Ohio, this Commonwealth possesses the best means of arresting the progress of this revolution, it is a duty which she owes not only to herself, but to the Atlantic States and to the Union at large to call those means into action. * * *

"Your committee are far from intimating that the General Assembly of Virginia has been totally unmindful of those natural advantages or wholly regardless of their improvement.

"The Commonwealth required time to recover from pecuniary losses which she sustained during the War of the Revolution. It found her citizens laboring under very heavy private debts, and left her government encumbered with a public debt of much greater magnitude.

"Yet in circumstances so inauspicious the statesmen of that day, and especially the illustrious man to whom, under heaven, this nation was indebted for the establishment of its freedom, did not disdain to enquire into the humblest means of giving to that freedom value. From his zealous exertions sprung the Potomac and James River canal companies. To the first of these the Commonwealth is indebted for a water communication 338 miles: and upon it and the contemplated works of the Shenandoah she relies for the further improvement of a navigation of 390 miles. She has shared with a sister State the benefits of the labor already performed on this river; in that which remains to be accomplished on the south branch of the Potomac and Cacapehon and the Shenandoah, she has an extensive interest.

"The James River Company have opened a navigation of 300 miles.

"The Appomattox and Dismal Swamp canal naturally followed into existence those which were indebted for their origin to the patriotism of General Washington. The former opened a navigation of 100 miles. The latter was designed merely to connect waters already navigable, but in its present use and remote consequences is not inferior in importance to any public work in the Commonwealth.

"The expense of the first of the preceding work does not exceed \$1,500 per mile upon the navigation already opened;

that of the second is about \$1,200; the average expense will be annually diminished in the history of future improvements on the branches of those rivers as the principal obstructions to their navigation were removed before their waters could be brought into partial use.

“The actual cost of those public works does not exceed one-third of the expense usually attendant upon the structure of turnpike roads; which in the absence of navigation are the only substitute for them. It is due to the latter, however, to remark that the addition recently made to them of parallel lines of rails, immovably set in the earth at proper intervals for the wheels of wagons, has more than equalized the advantages of such roads with the best ascending navigation which the resources of Virginia afford above their principal falls; and that the additional cost which this improvement gives to the structure of the turnpike, although great in itself, is inconsiderable when compared with its effect in reducing the expense of loads carried. The turnpike roads of the Commonwealth, except a few short pieces of particularly mountainous, and a road recently begun from Fredericksburg towards the Blue Ridge, are confined principally to the county of Loudoun, the adjacent counties of Fairfax, Fauquier, Frederick, and to the vicinity of the seat of Government.

“There is but one to which the funds of the Commonwealth have contributed any aid.

“All of these public works are alike in one respect. They purpose to defray the expense of their first cost and of their subsequent repairs, out of the tolls collected upon them; and these are equitably levied upon those who use them in sums proportionate to the benefit which they respectively derive from such use. Where it is absolutely certain that such works can subsist upon this basis alone, the revenue of the Commonwealth, although it may expedite their progress, is not indispensably necessary to their creation.”

Your Honor will observe from the foregoing that the Committee's sole idea was that the Commonwealth should perform its *duty* of giving these transportation facilities to the whole State and to the Western portion, by an *expenditure* of the public funds to that end.

I call your Honor's more particular attention now to the follow-

ing paragraphs as indicative of the Committee's idea of the most *beneficial* and *practical* method of making such expenditures :

“Private wealth will of itself take the direction which personal interest prompts. But there are many such works essential to the prosperity of the Commonwealth, the persons immediately interested in which have not capitals sufficient to commence their foundation, and there are many others of like utility which if completed would require the lapse of many years to make them profitable to the individual subscribers to their stock. The population and commerce which infallibly follow their direction, spread out upon their borders and swell their tolls, cannot be expected to precede their existence.

“Although almost all the turnpike roads within the Commonwealth of Virginia have been made without any other legislative aid than their respective acts of incorporation, yet it is probable that neither the Potomac nor James River would have been rendered navigable above tidewater with such assistance alone. Maryland and Virginia subscribed more than one-half of the capital stock of the former, and Virginia alone more than one-third of the latter. The tolls hitherto collected on the one would not have justified a subscription to its stock with a view to mere profit; and though those of the latter have for some time realized the most sanguine expectations of its friends and its stock is 80 per cent. above par, yet the revenue of the company apart from the appreciation of its stock, would not net to its members 6 per cent. per annum upon the sums which they have actually expended upon that river from the commencement of their labors to the present period.

“Your committee, however, confidently believe there is not an individual within the Commonwealth alive to a sense of her true interests who would have desired for the sake of a higher profit to the treasury upon the stock of the public in either of these works, to withdraw the funds which were required for their completion and permit this noble resource to return to a state of nature.

“Those who reside near to their banks directly participated in the benefits thus afforded them of a cheaper mode of transporting the productions of their labor to market; and those even who accidentally possessed the superior advantages of tidewater, or who were compelled by their distance from both

to resort to the common highways in order to reach the same markets, have greatly profited by those improvements of navigation which augment the extent and the value of that market, could not fail proportionately to enhance the price for their produce. So true it is that whatever contributes to increase the population and wealth of the towns must contribute to the growth and improvement of the country. And this effect is wrought not solely on the vicinity of these towns, it is seen not merely in the wealth which collects in their suburbs; but is discovered in the augmentation of their means of consumption and the enlargement of their commercial capitals.

“In this necessary and reciprocal relation of commerce and agriculture, the country below tidewater in Virginia has an immediate and even local interest in the progress and perfection of all those public works exclusive of its general interest in whatever advances the growth and prosperity of the Commonwealth. The inhabitants of the lowlands will therefore partake of the benefit of every application of public revenue to the improvement of the connection between their market towns and the country above them. It should be peculiarly their policy to turn the commerce to the west from its northern direction into the bosom of their own territory. In the efforts which are contemplated to improve the roads passing immediately through their own country they have an interest more sensible to the eye but less so to the understanding.

“Although much has been done for the improvement of the interior of Virginia, more yet remains to be accomplished.”

The committee then proceed to name a list of works which should be carried out.

(Reading further from the same report:)

“If Nature has divided the territory of the Commonwealth by numerous chains of lofty mountains it is only to incite the genius of mankind to climb them, and the period is not unthinkable—nay, it rests with the legislature to determine whether it be remote, when the roads which cross those natural and formidable barriers shall not be surpassed by those which run along their base * * *

“Should the General Assembly determine to patronize”—

I call your Honor's attention to the frequent occurrence of the term "patronize" throughout all the subsequent acts—

"by the application of the public revenue all such works as are likely to be of great public utility, it becomes important to decide whether an improvement may not be made in the mode heretofore pursued of extending to them patronage.

"Your committee are fully satisfied that much loss has been sustained by all the canal companies which have been incorporated hitherto for want of skill in their conduct. Their directors have served, it is true, without compensation. They have generally been public-spirited private gentlemen, but neither professional engineers nor capable from experience and observation of guarding against the errors and frauds of agents who pretended to be so.

"No single company could afford to purchase or could fully employ in a country where a few public works were begun, the services of a distinguished engineer; and yet without the previous surveys, plans and estimates of such an officer, no very arduous public work could be confidently begun or successfully conducted. To supply the defect of such an officer would be the obvious interest of the Commonwealth, and if he were not sufficiently compensated by the general utility of his labors, he might demand of each company such an interest in its stock as would be equivalent to the value of the service rendered to the company by such officer.

"Whatever funds the legislature may be inclined to appropriate for internal improvements, a difficulty must occur in settling the relative importance of its principal objects; and if the appropriation were also required to designate some particular object it would be often impracticable from the variety of opinion—always existing in an Assembly representing many local interests—to procure an union in the choice of any one.

"The first of these difficulties may be obviated by organizing a proper body to collect and prepare for the General Assembly the facts and information necessary to cast upon every application for a portion of the fund light enough to guide the sound discretion of the Legislature in the selection of subjects."

That was the prophetic vision of a "Board of Public Works."
The Special Master: That is the suggestion?

Mr. Lightfoot: Yes, sir. (Reading further from report:)

“And these facts will be entitled to the higher confidence if reported under the sanction of official responsibility.”

“To allay such local jealousies as might obstruct an agreement in favor of any single object of internal improvement, a fund may be previously segregated and set apart for the accomplishment of all by one appropriation. If the term, by future application to any, be at the same time prescribed, a like participation in the benefit of the fund would be assured to every interest which it is calculated to promote; and the speedy enjoyment of that benefit will be secured to each by apportioning the magnitude of the fund so set apart to the number and importance of the objects for which it is designed to provide.

“It may be sound policy for the Commonwealth, in order to accomplish some great commercial or political purpose, to throw open to general use, without the charge of toll, a particular canal or road; but it can never be to its interest, for many reasons, to become the sole proprietor of all the public works within its territory.

“Experience testifies that they will be more economically improved and better repaired if their management be left to the individuals who subscribe to their stock, with a view to private gain, than if confined to public officers or agents.

“The Commonwealth should subscribe so much to their stock and on such terms as will suffice to elicit individual wealth for public improvement—and the control which she retains over the conduct of the individual subscribers should extend no further than to prevent or correct such abuses upon the community at large, as might be apprehended from the too eager incentive of gain.

“By yielding to the individual subscribers the profit of the State on its shares of the stock of any company where required to secure such individuals against temporary loss, a much smaller subscription of the public money will suffice to draw forth private enterprise.”

Your Honor cannot but appreciate the clearness with which the committee set out their reasons why these contemplated expenditures of the State's funds should be made through the medium of

private corporations; and that such reasons are in perfect accord with Virginia's contention. The report continues:

"The Commonwealth can never be the loser if a public work judiciously begun be finally perfected—and the public security against such loss will be found in the discretion which the legislature retains over the choice of the object for which its patronage is sought.

"As the market rate of interest decreases in every commercial country with the growth of its capital, the maximum profit of the stock of each company may be reduced after the lapse of a limited period of time.

"The principles laid down in the preceding part of this report the committee has embodied in the resolutions which are subjoined to it; but they would not have performed their duty to the House if before they recommend the application to objects of internal improvement of all the public stock of the Commonwealth as well as the premium which may be hereafter received from the incorporation of new, the extension of the capitals or the duration of the charters of the existing banks, they had not enquired into the actual state of the debts and of the annual revenue and expenditure of the Commonwealth"—

"That inquiry resolves itself into the establishment of the following propositions:

"1st. That for fifteen years prior to the commencement of the late war the ordinary revenue of the Commonwealth has not only been adequate to meet the ordinary expenditures charged upon it, but to enable the Commonwealth to arm from time to time a large part of her militia—to lay the foundation of her literary fund, to erect several very costly public edifices, and to complete the purchase of the stock subscribed by the Commonwealth to the Bank of Virginia; objects which occasioned a disbursement from the ordinary revenue of a sum exceeding one million of dollars.

"2ndly. That since the commencement of that war the revenue of the Commonwealth more than doubled by additional taxes and farther augmented by considerable loans from the bank, has not only sufficed for the ordinary possible expenditure, but enabled the legislature to assume the State's quota of the direct tax of 1814 and to apply to the defense of the United

States a sum exceeding eighteen hundred thousand dollars, exclusive of the interest paid upon those loans.

“3rdly. That the Commonwealth has at present a claim upon the United States of unquestionable justice for more than seventeen hundred thousand dollars of the above amount, together with the interest on such portions of it at least as were obtained on loans, which claim when satisfied will furnish a sum competent to discharge all the debts of the Commonwealth, to provide for the expenditures of the current fiscal year; and to leave at the end of that year a balance in the treasury of three hundred and fifty thousand dollars to be applied to any other object of internal interest.

“4thly. That the present taxes may be reduced to the amount levied before the late war, provided the United States shall reimburse the sums advanced for the defense of the Commonwealth; and even should the payment of those sums be withheld, which a just confidence in the good faith of the General Government forbids your committee to expect, a repeal may yet be effected of such portions of the war taxes as are not absolutely pledged for the payment of the interest, and the redemption of the principal of the public debt.

“From all of which it evidently appears that the fund which it is proposed to apply to the purposes of internal improvement may be spared from the revenue of the Commonwealth without any embarrassment of her finances, any violation of her engagements, or pressure upon her citizens.

“Should the appropriations recommended by the committee receive the sanction of the legislature, the fund for internal improvement will consist of the following stock:

“5,547 shares of stock of the Bank of Virginia on which a dividend is now received, which computed at par is worth five hundred and fifty-four thousand, seven hundred dollars	\$554,700.00
“2,400 shares of the stock of the Bank of Virginia whereupon no dividend will accrue until after the first day of May, 1818	240,000.00
“3,344 shares of the stock of the Farmers’ Bank of Virginia.....	333,400.00

“250 shares of the stock of the James River Company, also estimated at par.....	50,000.00
“125 shares of the stock of the Appomattox Company	12,500.00
“70 shares of the stock of the Dismal Swamp Canal Company.....	17,500.00
“70 shares of the stock of the Potomac Company	31,111.11-1-9
“100 shares of the stock of the Little River Turnpike Company	10,000.00
“Making a total of.....	\$1,249,211.11-1-9

“Of which, the sum of \$938,100, is now productive of an annual revenue exceeding \$98,000; and \$240,000 will become alike productive after the first day of May, 1818.

“In the present state of the fund the progress of the public works to which it may be expected to give rise will be until the first day of May, 1818, at the rate of \$245,000 per annum. After that period it will be further augmented by the addition of \$60,000.

“So that the total value of the internal improvements of ten years will be \$2,777,500; and this calculation is grounded on a supposition that a portion of the stock which is now unproductive will continue to be so; and that no augmentation of the fund will have been made by the creation of new banks.

“But your committee confidently anticipate a considerable increase of the fund from the premium of future charters without impairing the productiveness of the stock of the existing banks.

“A very large proportion of the paper medium of Virginia is at present derived from the banks of the District of Columbia and of the adjacent States. A banking capital might be created which would supply that medium and yielding to the State a premium of \$600,000 would add to the revenue of the fund for internal improvement at least \$50,000, to the annual disbursements for internal improvements \$125,000, and to the total value of the works accomplished in the period of ten years, \$1,125,000.

“Nor do your committee consider the expectation too sanguine provided this fund receive the application which is here

proposed, that the present banking capital of the Commonwealth may be doubled in a period of ten years, and consequently the revenue received from that portion of the fund.

“The latter calculation being admitted to be correct, a continued application of this fund for a second period of ten years would defray the costs of public works, of the value of \$10,-452,500, exclusive of any allowance whatever for the dividends upon the shares acquired by the Commonwealth in the stock of any public work which may be hereafter commenced, and of any estimate of the value of certain works as shall owe their existence to the sale and reinvestment of any part of the public stock.

“Finally, your committee beg leave to subjoin that of the whole fund thus usefully applied a very inconsiderable part, if any, will have been derived from the pockets of the people by the imposition of taxes. If an allowance be made for the dividends on the State shares of the Bank of Virginia down to the period at which the last installment of the sum derived by the Commonwealth for that stock was paid to the bank, this amount will be found not to exceed the subsequent dividends on the State shares of the stock in those banks.

“The General Assembly has an absolute and unquestionable right to make any other disposition of this fund which to its wisdom may seem best; but your committee are assured that the institution of the Farmers’ Bank of Virginia and the unexampled premiums for banking in this Commonwealth are ascribable to the confident expectations of the legislature and the people that the profits of this novel though crude system were to be turned into the channel of public improvements. * * *

“Be it therefore resolved”—

The resolution which follows is practically the act of February 5, 1816, creating the fund for internal improvement. As it is so absolutely identical in terms, I will read only this clause:

“8. That the president and directors of the Board of Public Works be authorized to subscribe in behalf of the Commonwealth to such public works as the General Assembly may from time to time agree to patronize such portions of the revenue from the fund for internal improvement as may be directed by

law; but that no part of the fund shall be subscribed towards the stock of any canal or turnpike company until three-fifths at least of the whole stock necessary to complete such canal or turnpike shall have been otherwise subscribed; nor until of the stock so subscribed one-fifth shall have been paid in by the respective subscribers or the payment thereof effectually secured."

The Special Master: That is one-fifth, is it?

Mr. Lightfoot: One-fifth to be actually paid in.

Mr. Harrison: The Act of February 15, 1816, that followed that report creating the public improvement fund also created the board of public works to administer that fund?

Mr. Lightfoot: Yes.

Mr. Harrison: Following the suggestion of this report?

Mr. Lightfoot: Practically adopted the report. Right here, however, I wish to direct your Honor's attention to this feature. Reading this 8th clause of the resolution and the resulting 11th clause of the Act of February 15, 1816, in the light of the foregoing report it is apparent that its reason lies not in the hope of the State to thereby acquire general revenue and profit, as the individual subscribers had their hope and desire; but is explained by this paragraph on page 57, which I have read, and which says:

"By yielding to the individual subscribers the profit to the State on its shares of the stock of any company where required to secure such individuals against temporary loss, a much smaller subscription of public money will suffice to draw forth public enterprise."

The whole object of the State in dealing with these joint stock corporations was primarily to bring to its aid in its public improvement policy funds which it could not otherwise draw; and, secondly, to imbue the citizens of the Commonwealth residing in more remote districts with a pride in the development of their own territory and to give them an individual interest in the development of that territory which they could only obtain by being personally and financially interested. Such was the idea of the committee on roads and internal navigation.

Then was suggested the wise policy that the Commonwealth should not turn its funds over to a private corporation and there

stop and fail further to guard them, for knowledge of human nature taught that they would be wasted. Therefore, she appointed officers and directors in that corporation to see that the moneys which were so intrusted to its agency were properly applied for the benefit of the public at large, and she went as high up in the integrity of her officers as she could and selected the Governor and the Attorney General and the Auditor of the State to safeguard these interests and the public money which she was to expend for the general public benefit. The provision recommended by the committee and which was incorporated in the act creating the Board and Fund, is:

“That any increase of profit after that net income has been secured to these subscribers”—and the original idea was to assure them six per cent.

Mr. Hogg: They changed that, though, in 1828.

The Special Master: But at that time it was a limited guarantee of the investment of the private holder?

Mr. Lightfoot: Not a guarantee, but a withdrawal of the State in favor of the stockholders.

The Special Master: Well, a qualified guarantee.

Mr. Harrison: A waived right.

The Special Master: They waived their right and gave the private holder an opportunity to make himself good out of the State.

Mr. Lightfoot: Waived their right to the dividend up to six per cent., but after that was over, “any net income shall belong exclusively to the fund for internal improvement.” Not to go into the treasury of the State as a profit to the State, but to go into the fund for internal improvement, and, as will be later shown, to be expended through that fund for other internal improvements.

The Special Master: That is to say, it was a dedication of that money to that specific purpose?

Mr. Lightfoot: Yes, a dedication of that money to that specific purpose. The 13th clause of the Act of Feb. 15, 1816, reads:

(Reading:)

“13th. And be it further enacted, that the president and directors of the Board of Public Works shall vest in some pro-

ductive funds the unappropriated dividends accruing from any of the stock committed to their charge, until the same shall be specially applied by law to some object of internal improvement: And shall have power, subject to the control of the General Assembly, to sell from time to time, as may be ordained by law, the whole or any part of the shares held by the Commonwealth, in the stock of any canal, turnpike or other company subscribed for under the provisions of this act, for the purpose of investing the proceeds of sale in the stock of other similar companies, subject to the like conditions as have been before expressed in this act.

“14th. Be it further enacted, that the president and directors of the Board of Public Works shall have power to appoint, in behalf of the Commonwealth, so many directors of every public work, as shall bear to the whole number of the directors of such work the proportion of the Commonwealth’s shares of the stock in such works, which may be subscribed in pursuance of this act to the whole number of shares subscribed thereto.”

And it must impress your Honor that any business man investing his money, we will say, for a charitable purpose, who did not safeguard that investment in some way to see that it was not absolutely thrown away, would be a man whose business abilities could not highly impress one. And had the Commonwealth in so disbursing and expending the public money of its citizens failed to provide a means by which the money which it so expended should be properly expended, there would have been lack of faith on the part of the State; and that is the explanation of the appointment by the State of directors in these companies, and not, as I understand the position of the defendants to be, that thereby it enables the State to see that its profits properly came to it. There was no idea of pecuniary profit to the State in the establishment of the fund for internal improvement, but of such beneficial results to the citizens at large as might, directly or indirectly, flow from improved methods of intercommunication.

The Special Master: Your proposition is that the public works were a dominating and controlling feature and the element of profit was simply incidental, and that interest was also dedicated to the carrying on of public works?

Mr. Lightfoot: Absolutely.

The Special Master: In other words, the money originally ap-

propriated was dedicated to public works and confined to that all the way through?

Mr. Lightfoot: The element of profit, as it will develop, was to a limited extent, incidental—

The Special Master: Then you go further and say that the policy was adopted to induce the introduction of private capital and relieve the State of the whole burden of constructing the necessary public works?

Mr. Lightfoot: Exactly so; but they did hope that the investments which they made would be productive of profit; but for the sole purpose of extending the sphere of their policy of internal improvements.

The Special Master: That is, they hoped the public improvement would be able to take care of itself?

Mr. Lightfoot: Yes, sir.

The Special Master: And extend and amplify itself so far as might be necessary?

Mr. Lightfoot: Precisely.

That report was made to the General Assembly in the session of December, 1815.

As a matter of fact, while it does not show here, it does show on the Journal, and Documents of the House of Delegates of Virginia, from which this copy was made, that it was made on December 28, 1815; and on February 5, 1816, just a little over a month, the act creating a fund for internal improvement and the board of public works was passed and that act is a practical adoption of the resolutions embodied in this report. The first clause of that act provides that: "A fund shall be and the same is hereby created to be demoninated 'a fund for internal improvement,' and to be applied exclusively to the purpose of rendering navigable and uniting by canals the principal rivers, and of more intimately connecting by public highways the different parts of the Commonwealth."

That was the dedication of all moneys coming into the internal improvement fund to be handled by the board of public works.

And it may be further noted in this connection that the directors of the board of public works outside of its corporate officers were to be distributed geographically throughout the country, as was similarly provided later when the reorganization of the board took place, in 1852—a certain quota to come from Tidewater, a certain quota to be taken from the Valley, and another quota from beyond the

Alleghanies, then known, I believe, as the Trans-Montane territory, in order that each section of the country might be represented in the application of this public fund to internal improvements. And that was also provided in the reorganization act of 1852.

The next development in the evolution of this fund is the first report the board of public works made to the General Assembly. They were required to report annually. In their report for 1816 they say:

“The appeal which the board has thus made to the public spirit of the country has not been in vain. Great efforts have been made to fill the subscriptions for opening the navigation of the Roanoke.”

And they proceed to discuss the James River Company.

* * * “There are several objects within the scope of the system devised by the General Assembly for the improvement of the interior of Virginia which in the present state of her wealth and population it is beyond the reach of her unassisted ability to accomplish; but which being equally interesting to her sister States and the Government of the United States, it may not be impossible to further by their co-operation.”

“The failure of the stock of those companies which have already been incorporated to yield an immediate income to the subscribers is to be imputable to their tardy progress in building the works which they had begun; and delay which arose from their having commenced their labors with inadequate funds; and which discouraged new adventures from uniting with them or hazarding their fortunes in similar enterprises.

“The foundation which the General Assembly have now laid for future works of this description is calculated to remove this impediment to their progress, and to assure to the Commonwealth a speedy return for such sums as the General Assembly may authorize the Board of Public Works to subscribe out of the funds for internal improvement.

“It is not in the power of the Board in the infancy of their institution to include in this report a detail of the report and condition of any public work commenced under the auspices of the act of their incorporation. With a view, however, of early arousing the enterprise and patriotism of their fellow citizens

in general to embark their private fortunes in the career of internal improvement opened to them by the liberality of the General Assembly, the Board of Public Works adopted at their extraordinary session the accompanying resolutions:

“ ‘In a country so diversified as the territory of Virginia by rivers and mountains, possessing such a variety of staples and so many markets for their exploitation, the board could be expected to recommend to the General Assembly but a very small number of those public works which the future policy of Virginia may be inclined to patronize, and the fund for public internal improvements hereafter competent to aid:

“ ‘To open the navigation of those rivers, penetrate deeply into the interior of the country; to unite by commercial and political ties the widely extended territory of the Commonwealth, are in the estimation of the board objects of the first magnitude in the scale of improvements contemplated by the General Assembly.’ ”

The resolution marked “B” on page 87 set out what the board considered most important in the opening up of that general work.

The Special Master: That is the particular project?

Mr. Lightfoot: The particular projects which at that time appealed to them were—

“That the making of an artificial road from Staunton to some point on the Ohio River in the county of Wood or Tyler is an object of great importance to the interests of this Commonwealth.”

The Special Master: This is the report of the board of public works, not the report of the original committee?

Mr. Lightfoot: It is the report of the board of public works; yes.

The Special Master: It is their first report, I take it.

Mr. Lightfoot (reading): “That the making of an artificial road from some point on Jackson’s River to some other point on the navigable waters of the Kanawha River and the extension of the navigation of those rivers as high up the same as practicable, are objects of great importance to the interests of this Commonwealth.”

Next:

“Resolved, That the making of an artificial road from Salem, in the county of Botetourt, to Winchester, is an object of great importance to the interests of this Commonwealth.”

They do not say it is an object that will probably be greatly profitable to the coffers of the Commonwealth, but of great importance to the interests of the Commonwealth.

They have this:

“Resolved, That the improvement of the navigation of the Monongalia River is an object of great importance to the interests of this Commonwealth.”

“Resolved, That the making of an artificial road from Winchester to a point near the eastern base of the Alleghany Mountain, on the road which the Government of the United State is extending from Fort Cumberland to Wheeling, is an object of great importance to the interests of this Commonwealth.”

The Special Master: That is, you say they were not looking for avenues of profitable investment so much as they were for avenues of developing the public property?

Mr. Lightfoot: Absolutely, sir.

The Special Master: That is your proposition there?

Mr. Lightfoot: The next note which may be made here as to the development of this matter is this. Your Honor will see that it was nothing but a natural consequence of the process of evolution, that, taking the board created in 1816 and following through all its experiences to 1861, the imperfection which first existed in that board, should, from time to time, be cured and regulated by other legislation.

Therefore you will find that the gentlemen on the other side have cited and that there do exist frequent acts between 1816 and 1861 regulating the board of public works and the fund for internal improvement those being regulations which the experience of the board proved to the Legislature were necessary for the best development of that fund with which it had been entrusted; and here is the inception of one of the board acts:

“The report made pursuant to this instruction is now respectfully submitted marked ‘N,’ and will enable the legislature to decide between the different modes of forming the connection;”—

They are speaking of the Kanawha River—

“Much of the richest territory of the State is on the Kanawha and Ohio Rivers, a great proportion of which was granted in large tracts to individuals for military service, many of which tracts have been kept entire, and the greatest part of them remain unsettled to this day; this circumstance, combined with the sparse population of the counties through which the improvement was to be made, induces the belief that the usual contributions from individuals cannot be expected in that quarter of the country. It is therefore respectfully suggested that the salutary restriction that requires three-fifths of the stock to be taken by individuals be dispensed with or modified in this instance, or that the co-operation of capitalists may be drawn to the aid of this work by combining a more immediate and profitable employment of capital with its execution.”

That is the first suggestion I have been able to find which allowed the State to depart from the law of the incorporation of the board of public works.

The Special Master: That is the origin of the policy?

Mr. Lightfoot: That is the origin of the policy.

The Special Master: This is the first time when you find a departure from the policy of subscribing two-fifths?

Mr. Lightfoot: It is the first time I find a *suggestion* of departure from that policy. The first departure which I found, but to which I have not the reference, was in 1837, if I am not mistaken—the first instance which I was able to locate of a subscription other than the two-fifths interest; and the report from which I am reading is under date of 1817.

Mr. Carlisle: What year?

Mr. Lightfoot: It is a report of the board in 1817.

Now if your Honor please, we find that we can trace this principle, with brief references, through the other reports of the board, a very few of which I will quote.

This is the third report of the board of public works.

Mr. Conrad: Made when?

Mr. Lightfoot: Made in 1818. It is for the fiscal year ending October, 1818. We find this:

“The president and directors of the Board of Public Works beg leave to submit to the legislature whether it is not expedient to appropriate such a portion of the income of the fund for internal improvement not exceeding one-fourth of the annual income, to the aid of turnpike companies, as that, while it shall produce an immediate advantage to many considerable districts of country which cannot otherwise receive any direct benefit from the fund, shall not obstruct the execution of other more important and extensive works. This policy seems to be recommended by the considerations that extensive districts cannot otherwise participate directly in the benefits of the fund, and that all the advantages arising from works on a small scale will be speedily realized.

“If the legislature should adopt this policy, then the board recommends to the patronage of the legislature”—

Certain companies which they recommend.

Then they proceed to say:

“The latter of these companies (referring to the Leesburg Turnpike Company) has also completed a considerable portion of the road, and a subscription by the Board of Public Works of \$33,600, payable in four annual instalments, equal to two-fifths of the stock of the company, of which three-fifths are already taken by individuals, would enable them to complete the road. A statement of the situation of this company is subjoined.”

The Swift Run Gap Turnpike Company, reporting to the board of public works, as it was required to do by law, incorporate in their report this single passage; and I will read it, if your Honor please, to show not only the interpretation which the Legislature placed on this policy, and which the committee reporting to the Legislature placed on it, but which those who were receiving the benefit of the fund placed on it. This is from the directorate of the Swift Run Gap Company, in 1818:

“That experience has too fully and universally evidenced the great advantages resulting from good roads, for the transportation to market of the surplus products of a country, to render it necessary for them to enforce it by any remarks on their part, especially when addressing a body whose very name and the object of whose creation must satisfactorily indicate the growth and diffusion of liberal and enlarged views upon the propriety of internal improvement and the extinction of those prejudices which have but too long retarded a measure deeply involving the best interests of the Commonwealth. * * * It is believed there are but few sections of Virginia which present stronger inducements of this kind than that connected with the Swift Run Gap Turnpike road.”

It may be noted, in passing, that because of that happy expression, they got their money.

The special Master: Where was that road?

Mr. Lightfoot: The Swift Run Gap turnpike was in Virginia, not in West Virginia.

The Special Master: Their argument proved to be persuasive?

Mr. Lightfoot: It proved to be persuasive.

Mr. Anderson: It crosses the Blue Ridge, in Greene county, I believe, to Rockingham.

Mr. Lightfoot: The Leesburg Turnpike Company made application for funds, and show the position they were in by resolution:

“It is further resolved that it be made known to the said president and directors that upwards of one-fifth part of said road is now completed, and that this board are of the opinion that unless the said president and directors of the Board of Public Works shall aid in the completion of said road by subscribing two-fifths of the stock aforesaid, every exertion to produce the desired object must prove abortive, and the public be deprived of a great and important internal improvement.”

It was not the board of public works making a profitable investment in the Leesburg Turnpike Company, but it was the Leesburg Turnpike Company seeking the aid and patronage of the State, to give to the public a great and important internal improvement.

The next reference I have is in the year 1819, which I deem to be

of especial enlightenment on this subject. It is the report of the board of public works for the year ending December 15, 1819, or rendered at that date :

“In reviewing the progress and condition of the various improvements now in process of execution under the patronage of the legislature, the Board of Public Works are inspired with a just confidence that the valuable and highly important objects for the attainment of which the fund for internal improvement was created, will be fully attained by a patient perseverance in the application of the daily increasing capital of the fund to those objects.”

In those days the fund did increase; and continuing in a supplement to that report, Mr. Thomas M. Randolph, the president of the board of public works, said :

“The subject is now mature for the decision of the legislature; and upon that depends what Virginia shall be twenty years hence; whether as now, or with a great and flourishing commerce, populous and wealthy cities, re-occupied plains on the east, and peopled mountains on the west, a connection founded on mutual interests with the great population of the Western States, for the most part driven originally by want of profitable employment from her own territory; and the mighty influence such advantages cannot fail to create for the preservation of order, free principles and union in the confederacy.”

And that clause was founded on a petition for the augmentation of the fund.

In 1820 the board of public works, in reviewing the state of the fund, say :

“A review of the state of the fund and of the report of the principal engineer, together with the other reports accompanying this, affords gratifying proof that whilst the territory of the Commonwealth abounds with objects of valuable internal improvement in every district, the fund appropriated for that purpose is adequate, upon the principles upon which it is founded, to give effectual aid to such improvements to the full extent of the demands which can probably be made upon it;

and that several public works of great importance to extensive districts of the State are under the patronage of the legislature rapidly advancing to completion which, without such patronage, might have languished for years, and perhaps have been wholly abandoned.”

In their Ninth Report, made in the year 1824, which comes within the period in which this accounting is being made, we find this situation, the same board of public works reporting :

“Your committee cannot close this report without calling the attention of the legislature to the growing importance of the salt trade upon the Kanawha River.”

I read this, if you Honor please, in connection with that portion of Exhibit C-1 under which the defendant has excluded the improvements on the Kanawha River. It is Exhibit C-1, page 2, items beginning “Kanawha Turnpike,” and running down to item 15 :

I want to show that it was not with any object to secure profit to the State treasury and coffers, as a matter of monetary greed, that they spent this money on the Kanawha improvement, but only in pursuance of that general policy of developing the State, and in this instance particularly, the development of that particular portion of the State :

“Your committee cannot close this report without calling the attention of the legislature to the growing importance of the salt trade upon the Kanawha River. At a very early period of this great undertaking, this subject engaged the attention of the legislature; and whilst the magnitude of those manufacturies, yielding at this time about one million bushels of salt per annum, promised a large revenue to the Commonwealth, a reciprocal advantage was expected to accrue to them in the increased facilities of their carriage to their markets upon the Ohio River.

“ We cannot, if we would, disguise it from ourselves that Virginia, if not deteriorating, is certainly not advancing with the same rapidity as many of her sister States of this Union. Her population is passing to the West, contributing by their wealth and industry to raise up new and as yet unknown interests in that important part of the United States. It is in

this point of view, as your committee conceive, that this subject becomes most deeply interesting, and regarding this great chain of improvement as a social link uniting the East and West, it deserves the highest consideration of Virginia."

And that great link to which they referred was the establishment of a continuous chain of communication between the waters of the James and of the Ohio, with special reference—

Mr. Anderson: And the James and Kanawha Rivers.

Mr. Lightfoot: And the James and Kanawha Rivers—with special reference here to the development of the Kanawha River and the building of a turnpike road.

In 1825 we find this significant phrase from the report of the board of public works—their Tenth Annual Report:

"But few of the stocks of the canal and turnpike companies acquired by the application of the income of the fund, under the acts of the General Assembly and the resolutions of the board, as yet pay any dividend, and the revenue derived from that source is at present very inconsiderable. The appropriations made to companies with which this board has thus become connected, though unproductive of revenue, have not failed in producing a good effect."

The income from revenue was not what this board was looking for, altogether. Continuing we find:

"A spirit of improvement, it is believed, has been excited in some sections of our State where none existed before; and the assistance afforded in several instances has led to the undertaking of improvements which otherwise would not have been commenced and could not have been accomplished. The board, however, entertains the expectation that in addition to the benefit thus conferred, the revenue will in time be derived which will enable it to extend the sphere of its utility."

That is not the expression of a private investor, who says he has the hope that in the course of time a revenue will be derived which will pay him for the risk he is taking for his money; but they have

the hope that in time a revenue will be derived which will enable it to extend the sphere of its utilities.

That is the full object and purpose of the fund for internal improvement, as it was disbursed by the board of public works, and if that does not constitute an expenditure, as differentiated from an investment for profit, it is hard to conceive what an expenditure means, as differentiated from an investment for profit.

We come now to 1829, and I will read a single passage. I am reading these brief paragraphs to show the continuity of this same principle.

Mr. Dawson: What is that?

Mr. Lightfoot: It is the Fourteenth Annual Report of the Board of Public Works for the year ending October 31, 1829.

Mr. Dawson: What page?

Mr. Lightfoot: Page 10.

“Although it was not the original purpose of the legislature in creating the fund for internal improvement that the aid to be extended to joint stock companies should be afforded upon the principle of mere money-making,”—

There is the direct expression of the board of public works, in 1829, of the very principle for which Virginia is contending—

“yet its productiveness cannot fail to be gratifying not only as yielding income, and thus enlarging the capability of the fund for extended usefulness, but particularly as affording conclusive proof of the beneficial application of its income in the execution of important work.”

Mr. Spooner: What book is that?

Mr. Lightfoot: It is the sixth volume of the proceedings of the board of public works, being the Fourteenth Annual Report, for the year ending October 31, 1829; and I now read from page eleven:

“There are other companies with whom the fund for internal improvement stands connected whose prospects, though not so bright, are nevertheless encouraging. There are yet some others whose reports scarcely justify the faint expectations of even deferred income from the capital expended, but whose

work nevertheless affords important facilities to the trade of extensive and fertile districts of the State, and thus contributes to the general weal.

“This view of the condition and prospects of the companies who have been arduously engaged in making extensive and valuable improvements in our country, and to whom the aid of this fund is extended, is presented not only to excite attention to the certain and contingent advantages of such improvements, but also to repress, as far as practicable, that spirit of impatience which so frequently manifests itself throughout the country by murmurs at the tardiness and the expense with which the works are prosecuted, and at the unprofitableness of the public investments. These murmurs seemed to indicate the idle expectation that these great public works ought to be conducted as rapidly as the ordinary operations of a farm”—

I pause here. Your Honor will note, and I say this without fear of contradiction, that there was no idea of departing from the original plan of incorporation until the suggestion, which I read, 1817; there was no practical application of the fund to any interest except that of joint stock corporations until certainly as late as 1835 or 1836. In fact, the inception and application of the fund, for internal improvement was with the sole idea of working through the medium of joint stock companies. It was not a fund which was diverted from some other plan to that of investments in joint stock corporations for profit. It was a fund originated for expenditure on internal improvements through the medium of joint stock companies.

Now, we find that emphasized. The public of the State at that time were beginning to get impatient, as this expresses it, at the unprofitableness of the public investments. The public investments were these expenditures through the joint stock corporations.

“These murmurs seemed to indicate the *idle expectation*,” the board says, “that these great *public works* ought to be conducted as rapidly as the ordinary operations of a farm, and a belief that the public investments are made upon the principles of common stock jobbing.”

The Special Master: Let me get that exact language that you quote.

Mr. Lightfoot (reading): “These murmurs seemed to indicate

the idle expectation that these great public works ought to be conducted as rapidly as the ordinary operations of a farm, and a belief that the public investments are made upon the principles of common stock jobbing.” •

An idea which was so repugnant to the inception and conception of the fund for internal improvement, and was so gross an insult to the board of public works, that they resented it. They refer with scorn to the idea that they were engaged in “common stock jobbing.”

The Special Master: That is, the suggestion was that no one was entitled to entertain that view?

Mr. Lightfoot: Certainly not. And now hear their further protest:

“This spirit of impatience opposes all its energies to that public spirit which should animate every community in its march to high prosperity. The latter ought to be cherished as being of inestimable value, while the former ought to be suppressed as tending to desolation only. Although it is far from being desirable that the stocks subscribed by the Board of Public works, under the direction of the General Assembly, should be unproductive of income, yet if the enhancement of real and other property in the country be equal in amount to the investment made, the community has surely lost nothing, and if the enhancement be indefinitely greater, so also is the common benefit. That such enhancement does occur in every community where the improvements of the country are vigorously prosecuted, is abundantly and irrefragably demonstrated by the experience of Pennsylvania, New York, and New England, where lands naturally less valuable command a price from four to ten times greater than they do in Virginia; and although their public stocks should yield them no income, yet the communities are otherwise benefited by them in a ratio of arithmetical progression. Public spirit and due perception of common and mutual interest is the great desideratum in Virginia. Were it to awaken, it would readily find subjects of improvement munificently spread before them. Surely, no country possesses greater capabilities than Virginia.”

And now again, after a lapse of eighty years, during which it might well have been thought that so severe a rebuke would have

served to have forever settled the question whether or not the State in its internal improvement policy was an "investor for profit" on the "principles of mere money-making," "a common stock jobber," or, whether she was a liberal-parent expending her funds for the common benefit of her children through the medium believed to be the most expedient, the defendants now request your Honor to overrule that board, the committee and the Legislature, and declare these expenditures to be "investments for profit," and "stock jobbing" operations as to which this defendant shall account only for the market value of a certificate of stock—a certificate which, when it was taken by the State as a voucher of its expenditure, was known to be probably valueless as productive of pecuniary dividends, but which represented the increased welfare of every citizen of the Commonwealth.

If your Honor please, in 1830 there had been no change in this sentiment. The board of public works, in their report for the year ending October 31, 1830, say this:

"This prosperous state of the fund, combined with the increased solicitude of the public on the subject of internal improvements, a solicitude created by the real necessities that exist for the construction of various improvements throughout the State, and which has been heightened by the example of some of the neighboring States who have been guided by an enlightened and liberal policy on this subject, has urged on the the Board of Public Works an inquiry into the capacity of the fund of internal improvement to complete the works already commenced and to construct such others as the interests of the public may render necessary. In administering the fund to the wants of so extensive a country, presenting great varieties of situation, soil and products, with a population in some instances separated by mountains and forests, any uniform rule founded upon the principles of justice and equality seems to be impracticable. If the principle of only applying the funds in combination with individuals"—

Now, here is where we get more concerning direct expenditure by the State. Up to this time it was through joint stock corporations. Now they begin to realize, as their experience has taught them, that they must in some particular instances do without the joint stock idea.

The Special Master: That is, there are improvements that private enterprise will not engage in?

Mr. Lightfoot: Yes; or which, for good reason, the State could handle to better advantage without them.

The Special Master: And if they are to be made, then the State must make them on its own sole responsibility?

Mr. Lightfoot: They say:

“If the principle of only applying the funds in combination with individuals in the form of stock companies, according to the provisions of the eleventh section of the act creating the fund, should be adopted and adhered to, the consequence would be that the energies of the fund will be exhausted upon local objects of partial benefit and extent, to be found most generally in such parts of the State where the population has already acquired sufficient surplus wealth to enable them to embark in such enterprises, and where the end to be gained is the advancement of individual interest rather than the public good. On the other hand, if only the income that arises upon the capital stock or investments of the fund is to be applied as it annually accrues, the amount is totally insufficient to effect any extended scheme of improvement commensurate with the great interests of the State.

“The act creating the fund contemplated the ‘rendering navigable and uniting by canals of the principal rivers, and of more intimately connecting, by public highways, different parts of the Commonwealth.’ The objects embraced by it are so extensive and important in their nature as to be excluded from the reach of individual enterprise and capital; besides it may happen that improvements are required essential to the best interests of the country, but from which no direct income will be realized, although the State would be abundantly remunerated by the stimulus it would give to industry by the development of new sources of wealth, by enhancing the value of lands, and by the increase of population, thereby adding to the moral and physical ability of the State to sustain itself in time of war and peace.”

The Special Master: Was it after that that the money was appropriated and used for direct construction?

Mr. Lightfoot: There was some being appropriated at that time

for the Kanawha improvements. The improvements of the Kanawha River were being prosecuted at that time.

The Special Master: As a direct improvement of the State alone?

Mr. Lightfoot: Yes, sir. This suggests a policy which eliminates altogether the idea of a return on investments.

Mr. Harrison: Give me that page, please.

Mr. Lightfoot: Page 113.

I say that money was then being appropriated directly on the Kanawha improvement. It will be necessary, in order that your Honor will not be misled, to state exactly how that came about.

Prior to 1820 the development of the Kanawha improvements, as I shall refer to them, practically this great idea of connecting the waters of the Chesapeake and the waters of the Kanawha, was formed and carried on by a joint stock corporation.

The Special Master: What was the name of that corporation?

Mr. Lightfoot: That was the James River Canal Company, originally; then the James River Company.

In the year 1820 it was found that the James River Company was not able to properly carry forward a work of such magnitude. I am speaking now as a matter of history and not testifying, but I think the gentlemen will agree that this is correct.

The Special Master: I suppose they did not have the financial ability?

Mr. Lightfoot: They not only did not have the financial ability; that could have been provided by the State through this method perhaps; but it was an undertaking so peculiarly of public interest and of such magnitude and proportion that it could not well be conducted by a private enterprise. At any rate, they were failing to carry out the objects for which they had been organized.

The Special Master: These results were not successful under that plan at that time?

Mr. Lightfoot: Precisely so. Therefore, in 1820, the James River Company was made, by the act printed in the Appendix, an agency of the State. It was a fiction of law—

The Special Master: That eliminated the private stockholders?

Mr. Lightfoot: That eliminated the private stockholders, to a limited extent.

Mr. Harrison: So far as the management was concerned?

Mr. Lightfoot: Yes; so far as the management was concerned.

The effect of the act of 1820 was to apparently leave that com-

pany still a private joint stock corporation, but in its capacity as a private joint stock corporation to make it the agent of the State to prosecute the work. That is, the State employed the James River Company to do the work.

The Special Master: Did it make the State the responsible party from that time on, in connection with the improvements?

Mr. Lightfoot: It made the State the financing party, and as I conceive it, it was as much an agent of the State as if the State had employed John Jones to dig the canal.

The Special Master: Did the result of the expenditure, the improvement, become the property of the State, or did it remain the property of the James River Company?

Mr. Anderson: That is the same property Mr. McClintic cited in the case where action for damages was brought against the company.

Mr. McClintic: The James River & Kanawha Company, the subsequently formed company.

Mr. Lightfoot: At any rate, in 1823, the State did away with this fiction of law, that the James River Company was an agency of the State. As a matter of fact, it was the State, and in 1823, by its act then passed, the James River Company was simply taken into the State and the board of public works were to carry on its improvements, which they did from that time on.

The Special Master: From that time on, we lose the organization, consisting of private stockholders and the State.

Mr. Lightfoot: Up until 1832.

The Special Master: That continued along until 1832?

Mr. Lightfoot: Yes, sir. In 1832 the State found it necessary to put this back into a private corporation. In other words, it was a little more than the State cared to handle. In 1832, by an act which has quite an important bearing in this case—

The Special Master: During this period, do you understand these expenditures in controversy were made?

Mr. Lightfoot: Absolutely. After the incorporation and organization of the James River & Kanawha Company, which took place in 1835, the incorporating act being of 1832, the active organization being in 1835, there is not a charge made for work done by that company, but every charge which appears on that sheet there is as an item against Kanawha improvements was made either out of the internal improvement fund or the public treasury by special act of appropriation prior to the organization and commencement of

work of the James River & Kanawha Company, or subsequent to it, to this extent: That is, the 43d section of the act of 1832—

The Special Master: Were they directly applied to construction by the State?

Mr. Lightfoot: Absolutely.

The Special Master: Through the medium of the James River & Kanawha Company?

Mr. Lightfoot: Not the James River & Kanawha Company.

The Special Master: The James River Company?

Mr. Lightfoot: The James River Company.

The Special Master: Acting, as you say, as the agent of the State?

Mr. Lightfoot: And at that time as the State itself. In 1823 the agency theory was done away with. It was taken over by the State.

The Special Master: So that the State was expending this money on its own property, according to your contention, from 1823? Take, for instance, this item of \$157,000. Was the State expending this money on this improvement which at that time was the property of the State?

Mr. Lightfoot: At that time it was the property of the State.

Mr. Spooner: How did the State take it over?

Mr. Lightfoot: The State took it over under the act of 1823, when it took over the James River Company.

Mr. Spooner: What do you mean; took over its stock?

The Special Master: The question is whether the legal proceedings that took place at that time resulted in the elimination of the James River Company as a private corporation and the substitution of the State as a legal entity.

Mr. McClintic: That is a question of construction that we do not agree with.

The Special Master: I understand that.

Mr. Conrad: Let Mr. Lightfoot make a chronological statement. He will bring it out very clearly.

Mr. Lightfoot: Now, if the court please, the preamble to the Act of 1820, Appendix, page 50, reads as follows:

“Whereas it will be greatly beneficial to the good people of this Commonwealth to improve the navigation of James and Jackson’s Rivers, from tidewater to the mouth of Dunlap’s Creek, by navigable canals and locks, where necessary; to

make a convenient road from thence to the great falls of the Kanawha River; and to make the last mentioned river conveniently navigable from the great falls thereof to the river Ohio. And, whereas, there is reason to believe that the James River Company is willing to consent to such modifications of their charters as will enable the said company, as an agent acting and holding in trust for the benefit of this Commonwealth, to undertake and carry the said improvements into effect, in such manner as the General Assembly shall, from time to time, direct and require; and, under the direction and superintendence of such agent or agents as may from time to time be appointed for this purpose, by appropriating to these objects such sums of money as they may borrow, under the authority and by the direction of the General Assembly, and upon such terms as may be prescribed by law from time to time; and that the said company will moreover consent to apply all their surplus tolls and income of every kind which may accrue after the first day of January, eighteen hundred and twenty, from the works and property now belonging to them, or which they may hereafter acquire, to the payment of the interest on the money which they may so borrow, except only so much thereof as may be necessary to defray the expenses of keeping their works now existing, or hereafter to be made, in complete repair, and all reasonable expenses necessary for collecting tolls and managing all other affairs of the company," and so forth,

“Be it therefore enacted, that if the James River Company shall, on or before the fifteenth day of March next, assent to the provisions of this act, by a resolution to that effect”—

And I may pause here to say that they did assent to the provisions of the act—

“entered on their journals, and certify the same to the Governor of this Commonwealth, who shall forthwith make proclamation thereof, then this act shall immediately commence and be in force; and shall thereafter be considered a compact between this Commonwealth and the said company; subject, however, at all times, to such change and modification as the legislature may think proper to make: Provided, that no such change or modification shall be made as will take from the James River Company their right to the dividends, or any part

of the dividends, upon their stock, allowed to them by this act; and that no such change or modification shall be made as will take from those who may have loaned money to the said company, under the faith of this act, the security hereby pledged to them for the payment of the interest thereon."

The Special Master: Is not that section predicated upon the idea of the continuance of the James River Company?

Mr. Lightfoot: As a fiction of law, for you will see that the act itself—

The Special Master: Take the preamble. I will take this as you go along, and get your suggestion. The preamble says:

"And that the said company will moreover consent to apply all their surplus tolls and income of every kind which may accrue after the first day of January, eighteen hundred and twenty, from the works and property now belonging to them, or which they may hereafter acquire."

That preamble is rather predicated upon the idea that the tolls become the property of the James River Company as they accrue, is it not?

Mr. Lightfoot: Yes, sir, that they would have the bare legal title to them but to be held in trust for and applied to the uses of the State, the equitable beneficiary.

The Special Master: That is a little bit beyond fiction, is it not, if a company exists in a way so that it is legally entitled to the tolls?

Mr. Lightfoot: Except so much as was necessary—

The Special Master: I only want to get your suggestions as we go along.

Mr. Harrison: The State gets everything. You might call attention to that as you go along. The State gets the net profits, and gets everything.

Mr. Spooner: The State gets the dividends on the stock.

The Special Master: No; the express provision is that no change or modification shall be made that will take from the James River Company the dividends or any part of the dividends on their stock.

Mr. Lightfoot: There is little importance to be attached to the suggestion that it was a fiction of law, although I am satisfied that

proposition could be made good, as it really has no bearing on the point that I am making here.

The Special Master: That is, it is not significant from your point of view to establish the fact that the company went out of existence?

Mr. Lightfoot: No, sir; not at all, but in order to show the true status of that company, it is necessary to read the act of 1820 with the act of 1823.

The Special Master: What page is that?

Mr. Lightfoot: The act of 1823 is on page 64 of the Appendix.

The Special Master: Then what section do you refer to?

Mr. Lightfoot: I will take that up. I read, first, from the preamble:

“Whereas, by an act passed on the seventeenth day of February, one thousand eight hundred and twenty, entitled ‘An act to amend the act entitled “An act for clearing and improving the navigation of James River, and for uniting the eastern and western waters by the James and Kanawha Rivers”’, the James River Company were directed to effect a canal navigation from the tidewater of James River to the mouth of Dunlap’s Creek; to make a road from thence to the great falls of the Great Kanawha River, and to render the latter river navigable from the great falls to the River Ohio; and the present General Assembly, being fully sensible of the great interest which the good people of this Commonwealth have in the success of the said objects, deem it necessary to adopt a more effectual mode to give them effect than that heretofore provided,

“1. Be it therefore enacted, that from and after the commencement of this act all the powers and duties of the existing president and directors of the James River Company, except as hereinafter provided, shall be superseded and annulled, and thereafter no other election of president and directors shall be made in the manner now provided by law; but the Governor, Lieutenant-Governor, Treasurer and Auditor of the Commonwealth for the time being and the Second Auditor, whose office is created by this act, and their successors in office shall be *ex-officio* the president and directors of the said company; of whom the Governor shall be president; and the said Governor, Lieutenant-Governor, Treasurer, Auditor and Second Auditor, from the time aforesaid, as president and direc-

tors of the said company, shall succeed to and possess all the rights, powers, duties and privileges of the existing president and directors, except so far as may be otherwise provided by this act. A board for the transaction of the business of said company shall be constituted by any three or more of the said officers. In the absence of the Governor from the board, the Lieutenant-Governor shall be president *pro tempore*; and in the absence of both, the Treasurer shall preside."

The act then continues—

The Special Master: What is the effect of that section upon the legal existence of the James River Company as a corporation, from your point of view?

Mr. Lightfoot: That it was absolutely absorbed in the State.

The Special Master: Does it do any more than arbitrarily select its officers?

Mr. Lightfoot: Yes, sir.

The Special Master: That section?

Mr. Lightfoot: No, sir; not that section. The rest of the act does.

The Special Master: Did the James River Company assent to that legislation?

Mr. Lightfoot: Yes, sir.

The Special Master: They did assent to it?

Mr. Lightfoot: They did assent to it.

Mr. Anderson: They got fifteen per cent. forever afterwards upon their stock.

The Special Master: That is another matter. This section, as it stands, apparently goes no further than to arbitrarily select for the James River Company certain officers.

Mr. Anderson: With their consent; and the stock after that time became a perpetual annuity of fifteen per cent.

The Special Master: Did it practically operate as a dissolution? The real question is going to come as to whether there still remained a legal entity which was known as the corporation, or whether it was practically a dissolution and transfer of the property to the Commonwealth.

Mr. Anderson: It was, after that date, a corporation controlled by the State.

The Special Master: Was it of such a character that the title to

the improvement, whatever it was, vested in the corporation owned by it, or was it really vested in the State?

Mr. Anderson: It was vested in the corporation, just as in the case of the Covington and Ohio Railroad Company, in which the State was the sole stockholder.

Mr. McClintic: But there were other stockholders of the James River Company.

Mr. Anderson: They had no power of voting.

The Special Master: There is a distinction between the holding of a stockholder and the holding of the corporation itself—that is, as a legal proposition.

Mr. McClintic: I understand.

Mr. Anderson: They gave up their rights as stockholders in consideration of a perpetual annuity of fifteen per cent. on the par value of the original holders.

The Special Master: Your contention is, Mr. Attorney-General, that that is equivalent to the elimination of the James River as a corporation?

Mr. Anderson: As a corporation.

The Special Master: And that by operation of the various acts of the Legislature of Virginia, or this one act, and the assenting thereto by the James River Company, it resulted in the elimination of the James River Company as a corporation. That is your contention?

Mr. Anderson: Yes, sir.

The Special Master: And the substitution of the State?

Mr. Anderson: Yes, sir.

The Special Master: That construction the other side do not agree to, as I understand. Am I right about that?

Mr. McClintic: Yes, sir.

The Special Master: Your proposition is that the James River Company continued as a legal entity, and if there was any money expended upon an improvement which was the property of the James River Company at the time this act of the Legislature was enacted, it simply increased the value of the property of the James River Company, and it still remained their property. That is your contention?

Mr. McClintic: Yes.

The Special Master: For that reason you say that was not expended within the limits of the State, but was expended to add to the value of the property of the corporation?

Mr. McClintic: In addition to that, we have other reasons which I set out yesterday.

The Special Master: Yes, I understand, but upon this particular point that is your contention?

Mr. McClintic: Yes, sir.

Mr. Lightfoot: It had not been my intention to go into this phase of the matter.

The Special Master: I do not wish to divert you from your line of argument.

Mr. Lightfoot: I was only referring to these acts—

The Special Master: You were making reference to those as incidental to your main proposition?

Mr. Lightfoot: Yes, for this purpose—to show that up to the organization of the James River & Kanawha Company the State was spending the money on the Kanawha improvements through this agency of the James River Company, which we say was the State. At any rate, the money went out of the public treasury.

Without being able right here to put my hand on the passage, I will refer you to it later. I had it marked in another volume. I want to show that as to these Kanawha improvements, the moneys which were expended prior to 1835 were spent through this James River Company, which we say was the State, and came out of the public treasury.

The Special Master: Spent by the James River Company after it became an instrumentality of the State?

Mr. Anderson: It was not that, either. It was directed by the State, through commissioners elected and appointed by the State, not by the James River Company.

Mr. Lightfoot: Prior to that time we are beyond our accounting period, and do not have to go into that question.

The Special Master: I understand, Mr. Attorney-General, that after 1823, the money was expended directly by the State commissioners?

Mr. Anderson: Yes, sir.

The Special Master: And not through the instrumentality of the James River Company or the James River & Kanawha Company. Do you understand it, Mr. Lightfoot?

Mr. Lightfoot: Yes, sir.

Mr. Anderson: That is, on the Kanawha Turnpike and Kanawha improvements, the money spent from 1824 until 1832, about \$400,000, was expended on the Kanawha road and the Kanawha improve-

ments, through instrumentalities appointed directly by the State, and every dollar of it was State money.

The Special Master: And that includes these items in controversy?

Mr. Anderson: Yes, sir; that includes these items in controversy.

Mr. Lightfoot: And that is this act of 1823.

The Special Master: Well, this suggestion of yours, Mr. Attorney-General, is predicated upon your construction of the act of 1823?

Mr. Anderson: No, sir; it is predicated upon the actual appropriations that were made and the money that was spent.

Mr. McClintic: The acts making appropriations are all in the Appendix.

Mr. Anderson: The act of 1823 and the subsequent acts are there. There are eight or ten of them. The money was raised by the treasury of the State.

The Special Master: Am I right that the money that was appropriated was expended under the provision of the act of 1823, February 24th?

Mr. Anderson: That and subsequent acts.

The Special Master: Then expended under the provisions of the act of 1823 as modified by subsequent legislation, if it was modified?

Mr. Anderson: Yes. They were independent acts making appropriations, or, rather authorizing the credit of the State to be used to raise money for that purpose.

Mr. Lightfoot: As I say, if the Court please, the intricacies of that question I do not care to go into now.

The Special Master: It is aside from the general line of the argument you are making?

Mr. Lightfoot: Entirely so.

The Special Master: I understood you to only refer to it as incidental.

Mr. Lightfoot: The claim on the part of Virginia is to the money that was spent on Kanawha improvements—and, as I understand the joint exhibit, the defendant admits that the amount so claimed to have been expended or put on the Kanawha improvements is accurate as to amount and as to location.

The Special Master: The only question is as to the circumstances under which they were put in.

Mr. Lightfoot: Precisely so. The question with which I am dealing is whether they constituted "expenditures" or not.

Now, after 1832, when the James River & Kanawha Company was formed, there were certain moneys expended which the very act incorporating the James River & Kanawha Company provided for, in that it says the improvements on the Kanawha road shall be continued until completed by this old James River Company, which was the agent of the State, and the money which was expended there was the money put up by the State; so that the conclusion to which I am arriving is that the money exhibited in Joint Exhibit C-1 as being spent on the Kanawha improvements has absolutely no connection with the difficult questions which have been raised in connection with the James River & Kanawha Company. They are not affected in any way by the legislation affecting the James River & Kanawha Company, but were expenditures made by the State independent of the James River & Kanawha Company, absolutely, with this possible exception. The \$60,000—

The Special Master: The appropriations show that, I suppose; do they?

Mr. Lightfoot: Yes, sir; the \$60,000 which is charged as expended through the Kanawha Board.

The Special Master: That is involved in the question of the \$300,000 loan. Am I right about that?

Mr. Lightfoot: Yes; under the act of March 23, 1863. That is the only item which had any connection with the James River & Kanawha Company at all. All the other expenditures are prior to any legislation affecting the James River & Kanawha Company. As to that item of \$60,000, the Master has been sufficiently illuminated.

I digressed there, because this clause here suggested it. The 14th Annual Report of the board of public works continues:

“The legislature, early after the creation of the fund for internal improvement, foresaw the necessity of not relying altogether upon associations of individuals in the form of joint stock companies, or upon the limited expenditure of only the income of the fund for the execution of the more important improvements, and in the year 1820 acquired, by an arrangement with the James River Company, the right of the company to the improvement of that river, with the determination to connect it with the improvement of the Great Kanawha River, and thus create a continuous line of intercommunication from the Chesapeake Bay through the heart of the State to the Ohio River.”

I have but one more reference here in this particular line, and as it brings us up to the year 1841, and further, for the reason that it alludes to the seemingly vexed question of the Winchester & Potomac Railroad, I will read that to the Court. This is an extract from the 26th Annual Report of the board of public works, for the year ending 1841, pages 7, 8 and 9:

“Much of the superstructure of the Winchester & Potomac Railroad has been renewed, and its engines and other machines and appendages put into an improved condition, thus increasing its ability to accommodate, with safety and despatch, the transportation of the produce and trade of that fertile and important part of the State. * * * By the terms of the several loans to railroad and other companies, the reimbursement of the principal in most, if not all, of them was to commence with the fourth semi-annual installment of interest thereon by the payment of one-tenth which was to be repaid semi-annually thereafter until completed. Although this period has commenced in several cases, nothing has yet been received on account of the reimbursement of the principal. On the contrary, as has been already stated, even a large amount of interest due from some of them remains unpaid, and is likely so to remain for some time to come.

“If a regular course of proceeding should be adopted to exact payment of the principal and interest due, the consequence will unquestionably be destructive of the interests of the private stockholders, many of whom have invested large sums in this stock. It is not to be expected that property of this description and of such magnitude, forced into the market and sold at a period of general embarrassment of trade and scarcity of money, will command anything near its intrinsic value. If thus sold it would either become altogether the property of the State, or fall into the hands of a new set of individuals who would, at the low cost of the work to them, reap the harvest so richly due to the enterprising citizens who projected them, and whose purses so largely contributed to complete them. This must be the ultimate issue, unless legislative relief be granted to the companies, either in the way of a reasonable extension of time for the reimbursement of the principal, or by a conversion of the loans partially or wholly into stock of the several companies, as paid for by some of

them: If the former course be taken, the public interest will suffer nothing, provided the payment of the interest in arrear and becoming due be made essential to the privilege of extension, inasmuch as the reimbursement of the loans obtained by the State to provide for the loans to the companies can not be made until twenty years from that date, and may afterwards be reimbursed at the pleasure of the General Assembly.

“If it should be deemed, on the other hand, compatible with the public interest to comply with the wishes of such of the railroad companies as desire the conversion of their loans into their respective capitals, and which may be considered as deserving the favor of the legislature, then it might be proper to require a guarantee on their part that a dividend at least equal to the installments of interest on the amount of said loans shall be regularly set apart for the State; such guarantee to be given by a mortgage to secure the payment of the principal and interest of the amount so converted, in case of default in such dividends. Should this course be adopted, a small advantage, to which they are fully entitled, will accrue to the private stockholders in all dividends under six per cent. which are sufficiently large to leave a surplus after setting apart the amount of installments of interest. Dividends of six per cent. will place both private stockholders and the State on an equal footing, and in all above that rate the State will be the gainer.

“In connection with the subject of railroads, the board respectfully begs leave to submit the following remarks:

“It is well known that the capital of all our railroad companies proved to be entirely insufficient to complete the formation of the roadbeds and superstructure and to provide depots, work-shops, engines and all other necessary appendages for carrying on the business of the roads. It is equally well known that much of the capital was wasted in consequence of the necessarily imperfect knowledge of the subject which was possessed by engineers at the time of the introduction of railroads into the United States; and partly owing to neglect and want of economy, method and proper supervision in the transaction and management of their affairs at the outset and for some time after.

“The result has generally been that the companies have found the aid so liberally extended to them in the shape of loans very inadequate to their real necessity. They are mostly

still involved in heavy debts, exclusive of those to the State, and the urgent demands upon them for the payment of principal and interest which they are compelled to meet promptly in order to keep their works in operation, absorb their profits to such an extent as to deprive them, in a great measure, of the ability to keep the roadbeds and the motive power, and so forth, upon them in the perfect order they should be to insure regularity, safety and expedition.

“It must be remembered that these improvements were not fostered by the legislature through contributions in subscription and loans merely as investments of so much money in profitable stocks, but that they were actuated by a higher consideration, that of promoting the prosperity of the State at large by contracting to build up the local prosperity of its different sections.” (Italics not in original.)

I am reading from the year 1841 :

“That the most beneficial results have been experienced by every railroad that has been established is not a matter of conjecture. Industry has received from them a new impetus. The cultivation of the soil in every part of the country within the range of their influence has been greatly extended; arts, trades, and commerce flourish to a greater extent, and a greater reduction has been effected in the expense of transporting the produce of the farmer and the goods of the merchant to market, and a speedy and cheap transportation between the citizens of our own State with each other and with the citizens of other States has been established.

“To the individuals who first introduced and patronized the invaluable improvements, the State is greatly indebted. Their enterprise, their money and untiring perseverance first established amongst us the practicability and utility of these machines. But the instances are few in which, during many years of patient hope, they have been even partially compensated by the receipts of any part of the profits. Their case, therefore, appeals to the justice of the legislature for such relief as, in its wisdom, it can extend to them, with a due regard to public interest, and it is therefore submitted by this board as worthy of favorable consideration.”

If your Honor please, I have read these extracts with a view, as

first indicated, of showing by the light of the contemporaneous history of the inception of the fund and of the board, and in the light of its development and evolution, that not one single instance has ever been shown, either by the record or by the interpretation of the other side, to indicate for one single instant in any manner that the moneys which went out of the public treasury of the State of Virginia upon the roads, turnpikes, bridges, navigation companies and railroads of the State were anything else than expenditures of the money of the Commonwealth for the public weal and for the general advancement of the public interests of the State of Virginia.

Mr. McClintic and Mr. Hogg have both, with emphasis, as I understand, founded their theory of paragraph 7 and their denial of the charges of these joint stock companies under paragraph 3, on that specific ground, that the State derived no pecuniary benefit from these companies, that they were investments by the State of its money for profit, and therefore should be accounted for as to the value of that investment when the State of West Virginia took it over.

We claim, on the other hand, with what seems to me to be an element of only fair justice, that the combined old State spent out of its treasury so much money for the public weal, the public good, and that the decree of the court says that such expenditures shall be accounted for in this settlement.

The Special Master: Do you contend that the expenditures such as you are now discussing are what would be called direct expenditures, and therefore literally within the provisions of the decree, or do you contend that they are indirect expenditures, and therefore within the provisions of the decree?

Mr. Lightfoot: So far as I have been able to observe, outside of the casual reference by counsel on the other side to the term "direct," there is no suggestion in the case or the requirements of the decree before your Honor distinguishing between a direct and an indirect expenditure.

The Special Master: What would you call this; a direct or an indirect expenditure?

Mr. Lightfoot: I should undoubtedly call it a direct expenditure. That is, it is money which is taken out of the coffers of the State and put into the soil of the State in order to develop a certain road, but through a (in effect) limited liability partnership.

The Special Master: It reaches it through an indirect source;

and is not that the test? I am not suggesting that that is the determining feature, by any means. I want to get your view about it. That is, does the money that is thus expended within the limits of Virginia reach the improvement in West Virginia directly or indirectly? In other words, is it a direct expenditure or an indirect expenditure? Of course, their contention is that at the best it is an indirect expenditure. Then their further contention, as I understand it, is this. They say there are expenditures that come within the literal designation of paragraph 3, and literally answer the call, and those are what they call direct construction. They say there are two kinds of expenditures, one direct construction, money taken out of the treasury applied by the State itself to the construction of the improvement. They say that literally answers the call of paragraph 3. Now, they say there are other expenditures which were not made directly, but were made indirectly, and therefore do not meet literally—

Mr. Spooner: I claim they were not made by the State at all.

The Special Master: Yes; you claim they were made by private corporations; that when the money of the stockholders reached the treasury of the Commonwealth, it became the money of the corporation, and was therefore expended by the corporation.

Mr. Hogg: It comes under clause 7.

The Special Master: Your contention is that inasmuch as there are a lot of well defined expenditures, that literally answer the call of paragraph 3, the inference naturally follows that the money that was expended by a corporation, although obtained from the State, is not included within the paragraph. Do I get it right?

Mr. Spooner: It came partly from the State.

The Special Master: Yes; it came partly from the State.

Mr. Spooner: And was paid in on its stock subscriptions.

The Special Master: Your proposition is that when the money was paid into the treasury on its stock, the money went into the company and became the money of the company, and when that money was expended it was money of the corporation that was expended?

Mr. Hogg: It comes under clause 7 of the decree.

Mr. Carlisle: The company could pay its debts with it, if it had debts.

The Special Master: But of course that company would not have any debts except those connected with public improvements, because that is the purpose for which it was organized; but your

illustration is perfectly true. That is to say, it could pay any debts it saw fit. In other words, your proposition, as I understand it, is that it reached the treasury of the company, it became its money for all intents and purposes, but it was under no obligation to use it for any specific purpose except as it might be under the necessity to carry out the objects of its incorporation.

Mr. Lightfoot: Do I understand it to be their contention that the amount of moneys which went out of the treasury of the Commonwealth into the hands of this joint stock corporation could be spent for any purpose which the joint stock corporation desired?

The Special Master: I understand that to be their contention.

Mr. Lightfoot: If that is their contention, it seems to me they are building on very unsubstantial grounds.

The Special Master: That is so much to your advantage, if you are able to answer that contention successfully.

Mr. Lightfoot: I am relieved to find that is their contention and as my answer to it will refer your Honor to legislation designed especially to prevent misapplication of the States' funds. The first suggestion of a safe guard is contained in clause 15 of the Act of February 15, 1816 (ap. p 7) ; then clause 4 of the Act of March 4, 1819 (ap. p. 9) is abundant precaution, and is repeated in the 4th clause of the Act of February 11, 1823 (ap. p. 18). Clause 6 of that Act is designed to prevent misapplication of funds. It will hardly be denied that an expenditure for any purpose other than the construction of the specific improvement would be misapplication, in fact it would probably constitute embezzlement.

The Special Master: I understand their contention to be that when the State paid in its money on its stock, that money, when it reached the treasury, stood exactly the same as money paid in by the private individuals on their stock, and became the property of the corporation, and that the corporation from that time on had the right to control its expenditure.

Mr. Harrison: Yes, but—

The Special Master: Of course the corporation could not very well expend it for any purpose not within the scope of its powers and of its organization.

Mr. Spooner: That would be subject to control as *ultra vires*, beyond the purpose of the company.

The Special Master: Yes, but within the limits of the scope of the powers of the corporation. It had the power to use it as it elected.

Mr. Harrison: It is agreed the money was expended within the territory of West Virginia.

Mr. Spooner: Not by Virginia.

Mr. Harrison: Oh, yes.

The Special Master: I do not quite understand it to go that far. I understand the exhibit reserves to them the right to contend that the money—

Mr. Harrison: That it was not properly chargeable.

The Special Master: Yes; that it was not properly chargeable, and therefore not within the language of the decree—"all expenditures made by the Commonwealth of Virginia within the territory now constituting the State of West Virginia since any part of the debt was contracted." They admit the corporation paid this money that was received on its capital stock within West Virginia, but they do not admit that Virginia spent it.

Mr. Lightfoot: I understand them to admit that the money which is represented in Joint Exhibit C-1 was money which came out of the treasury of the State of Virginia.

The Special Master: Yes.

Mr. Harrison: And was expended through the medium of the joint stock companies.

The Special Master: They do not quite go so far as to say the medium.

Mr. Anderson: If your Honor please, I wish counsel on the other side to have our exact position before the other gentlemen who speak for West Virginia are heard, and I think it is fair to them that I should state exactly what our view in regard to that matter is, if my friend Mr. Lightfoot will excuse me one moment.

Mr. Lightfoot: Certainly.

Mr. Anderson: And I have reduced it to writing.

There can be no question that any expenditure made by Virginia by her several and independent acts upon any work of internal improvement or other object in West Virginia during the defined period is a proper and necessary charge against West Virginia under the terms of the third paragraph of the decree and under the Wheeling Ordinance. This is conceded by counsel for West Virginia. Now, it is equally clear that any such expenditure made by Virginia in association or in partnership with other corporations or individuals would be also a proper and necessary charge against West Virginia under the decree and under the ordinance. Here, in a number of instances, Virginia, instead of going into an ordi-

nary partnership with her associates in the various enterprises in question, chose to form a limited liability partnership to do the same thing. She never bought a share of stock. In not one single instance in her history, in connection with internal improvements, did she buy one share of stock. She went as an original creator of these corporations, an investor in these corporations, and subscribed to the enterprise, and got a certificate of stock as the evidence of her interest in a limited liability partnership, to do the same thing which could have been done and effected by an ordinary partnership or by an individual; a joint stock company, if your Honor please, is in law and in fact nothing more than a limited liability partnership.

How can it be even plausibly contended that because Virginia, for obvious considerations of expediency and private interest, chose to expend other investments in these public improvements and other enterprises in West Virginia territory through the medium or agency of a limited liability partnership, such expenditure was any less an expenditure by the State than it would be had she put it through the agency or medium of an unlimited partnership?

There is no qualification of expenditures which are to be charged, such as counsel for West Virginia have had to attempt to make. No such discrimination or distinction is made either in the decree or in the ordinance. The words direct and indirect are not found in either decree or ordinance. Opposing counsel are forced by the stress of their case, to interpolate the word "direct" both in the decree and in the ordinance—an interpolation, which while necessary for the purposes of their argument, is absolutely unwarranted by the decree or by the ordinance.

Mr. Spooner: So far as I am concerned, you could strike it out.

Mr. Carlisle: We only use the word "direct" to discriminate between those which Virginia itself—

Mr. Anderson: It has been your position all along.

The Special Master: The Senator's proposition is that the State did not expend it at all.

Mr. Spooner: That is my proposition.

The Special Master: Your proposition is that the corporation spent it?

Mr. Spooner: That is the proposition I propose to discuss.

The Special Master: The suggestions I made in relation to direct and indirect were on the basis of getting your suggestions in

reply to that, and this, in a general way, covers that. That is, my inquiry was what you would say to their proposition.

Mr. Spooner: Our position about the Kanawha business is that Virginia bought the stock of the Kanawha Company.

Mr. Anderson: Bought the stock?

Mr. Spooner: Yes; for the improvements.

Mr. Anderson: But she had already expended the money years before, for every dollar of that stock.

Mr. Spooner: No matter; she then conveyed it to the company and took stock for it, and transferred it to us by the Act of 1863.

Mr. Anderson: She certainly did that. She transferred her rights in that company too; but the expenditure had already been made.

Mr. Lightfoot: If the court please, that will practically conclude my review of the status of the fund for internal improvement and the Board of Public Works in reference to what we consider as demonstrated, that the moneys which went out of the treasury of the State of Virginia unto these roads, which are conceded by the defendant, by virtue of their joint exhibits, to have so gone, are expenditures within the—well, I might say the most confined and strictest interpretation of the term; but that it was so intended in the ordinance and in the decree of the court under which the Master is working is, at least to my mind, a question which is not open to discussion.

Mr. Spooner: Will you please state that again? My attention was distracted.

Mr. Lightfoot: Yes, sir. It is just simply this, that when the decree of the court was drawn, it was doubtless predicated on the Wheeling Ordinance, that clause of it; that the Wheeling Ordinance was doubtless predicated on the history of the internal fund and the Board of Public Works, and that the history of the internal improvement fund and the Board of Public Works, if my humble efforts for the past hour have been of any avail at all, conclusively show that the disbursements of that board and fund were expenditures of the Commonwealth's money, for the general benefits of her citizens at large, and not investments for profit.

The Special Master: That is, you say it was simply a method adopted by the Legislature to accomplish that result?

Mr. Lightfoot: Yes, sir.

The Special Master: And within a proper construction, taking

into account contemporaneous history, they are to be treated as expenditures for that purpose within that locality?

Mr. Lightfoot: I find that the defendant, in the exhibit entitled by her "Cash Summary, 1823 to 1860," at page 1054 of the Record, has actually applied that definition to them—"expenditures on account of subscriptions to capital stock of joint stock companies, including banks", and so forth. Just what significance they intended by the use of that term "expenditures", perhaps they themselves can better explain.

Mr. Spooner: I think we can.

Mr. Lightfoot: Yes, sir. I am sure I cannot explain it.

Mr. Spooner: That is objected to, anyway, by General Anderson.

The Special Master: Until it is ruled out of the case, if it has any significance, you think you are entitled to it, do you?

Mr. Anderson: Yes; that is perfectly legal and legitimate.

The Special Master: Oh, yes. If there is anything in that that is in the nature of an admission on the part of West Virginia, so long as it remains in the case, I will have to treat it as an admission.

Mr. Dawson: You evidently reconsidered that, and came to our conclusion, and later on used the word "expenditure".

Mr. Spooner: I do not think you can disburse any money for the purchase of anything without expending it; do you?

Mr. Lightfoot: I am pretty well of that opinion.

The Special Master: As I understand it, you both agree that an axiom is an axiom?

Mr. Lightfoot: I do.

Mr. Spooner: Things that are equal to each other are equal to themselves.

Mr. Lightfoot: I wish to take up now very briefly the items which the defendant has excluded in Joint Exhibit C-1, and which have been discussed by them to some extent. In doing so, I wish to rely largely, in fact practically, on the Acts of the General Assembly under which these several companies were incorporated, and under which their development took place.

The Winchester & Potomac Railroad has been one of the most maligned of these expenditures, and I find this to be true, that the State did, through this same medium of which I have been talking, spend \$120,000 on that road through its capital stock, and that then it did lend to the Winchester & Potomac Railroad \$150,000. I do not find that one single red cent of that \$150,000 has ever been returned to the State of Virginia, and, so far as that \$150,000 is

concerned, it is still owing, when we consider the distinction between the position of Virginia versus West Virginia, and Virginia versus Winchester & Potomac Railroad.

Now, the result of the whole thing is this. In 1866 the State of Virginia, under this act, which expresses the situation clearly—

The Special Master: You are now about to discuss their contention that the stock and loan were treated as one in the final closing out of that corporation?

Mr. Lightfoot: Yes, sir.

The Special Master: That is their contention, as I understand.

Mr. Lightfoot: Yes, sir.

The Special Master: That the stock and the loan were practically consolidated as one aggregate amount?

Mr. Lightfoot: Yes; one aggregate amount of \$83,333.33.

The Special Master: And that the \$83,000 is predicated both upon stock and loan?

Mr. Lightfoot: Now, if the court please, to settle that point absolutely, so far as I can see, I merely have to read these clauses from the Act of 1846, on page 30 of the Appendix:

1. "That the Board of Public Works shall be, and it is hereby authorized to receive from the Winchester & Potomac Railroad Company annually, from and after the first day of August, eighteen hundred and forty-seven, the sum of five thousand dollars, in lieu of interest upon the debt due by said company to the Commonwealth, and of dividends upon the stock of the Commonwealth in said company.

"2. Be it further enacted, That so long as the company shall, according to the provisions of this act, pay on the first day of August of each and every year as aforesaid, into the public treasury, the sum of five thousand dollars, the same shall be received in lieu of dividends and interest as aforesaid, and the payment of the principal of said debt shall be so long postponed.

"3. Be it further enacted, That if default shall be made in the payment of said annuity, the Board of Public Works shall have power to proceed to collect the whole of said debt and interest due, in the same manner as if this act had not been passed.

"4. Be it further enacted, That the lien of the Commonwealth upon said road now existing shall be retained in full

force for the whole debt and interest, the object of this act being only to postpone the collection of the same as long as the conditions of this act are complied with.

“5. Be it further enacted, That this act shall not affect the right of said company to dispose of their road to the Baltimore & Ohio Railroad Company, under the act of the last session.”

From the date of that Act, 1846, there is not a single word of legislation on the statute books of Virginia, which will indicate that either the stock representing subscription, or the amount of loan, were ever intended to be released by the State of Virginia, until you get to the act of 1866, subsequent to the date of this accounting, subsequent to the date of the separation of the two States, and within a period when the State of Virginia was dealing with her own physical property, and entirely separated from the State of West Virginia. Then you find an Act which says that the debt of the Winchester & Potomac Railroad, upon the payment of \$83,333.33, shall be lifted and discharged.

There is interpolated into that Act, in parenthesis, the words “the principal sum owing”. The history of that is largely a matter of conjecture. It is certainly not shown by the statutes that that was the principal sum owing. The principal sum owing was undoubtedly \$150,000; the Winchester & Potomac Railroad probably did from this date of 1846 treat that Act as authorizing a reduction of the \$150,000 loan to \$83,333.33, and it probably became customary so to consider it; that is the only way in which I know to account for that term, for there is certainly no legislation after 1846 that repeals the provisions of that Act or which modifies it, or which reduces the loan to that sum.

Now, I wish, your Honor, to consider these circumstances. The history of the Winchester & Potomac Railroad, which is partly in the record, in the evidence, shows that that road was in financial distress almost from the time of its incorporation. The object and purpose of this Act of 1846 was to put that company into a position where it could exist. The \$5,000 annuity, as I take it, was not the result of reducing \$150,000 down to \$83,333.33, but the \$5,000 was the sum which the railroad Company could afford to pay, and the State arbitrarily said: “Pay \$5,000”, and \$5,000 is six per cent. on \$83,333.33. That is how \$83,333.33 came into that account at all. That is my theory of this proposition.

The Special Master: The fact that the installments of interest

were not paid practically wiped out the annuity proposition, and left the debt in full force?

Mr. Lightfoot: Left the debt in full force.

The Special Master: It did not require, really, any act on the part of the Board of Public Works?

Mr. McClintic: Was not that paid, Mr. Lightfoot?

Mr. Lightfoot: It was paid up to 1861.

Mr. McClintic: Inclusive?

Mr. Lightfoot: Inclusive. In 1868 this \$83,333.33, with accumulated interest, amounted in all to \$118,000, and was paid to the present State of Virginia in her bonds at par.

Mr. Anderson: In the bonds of the old State.

Mr. Lightfoot: In the bonds of the old State. With what result? With the result, if your Honor will figure it up, that the annuity proposition of \$5,000 was taken up. In other words, here is \$83,333.33, which produces at six per cent, an annuity of \$5,000. \$5,000 was the amount, as I conceive, that the company could afford to pay. In 1866 the State said to the Winchester & Potomac Railroad who were in financial distress—

Mr. McClintic: There was a subsequent act of 1867, under which that money was paid.

Mr. Lightfoot: Yes, sir; the act of 1867, under which it was paid in 1868. The act of 1866 provided it should be paid in one year, and the act of 1867 continued it for another year; but in this act of 1867 the idea of the State was to put that road in such condition that it would not be bankrupt. Therefore, they said, "If you will pay the principal of the annuity, then you are relieved of your debt."

The Special Master: That is, the principal of the annuity, with interest up to the time it was paid?

Mr. Lightfoot: Up to the time it was paid.

What is the situation, though, between Virginia and West Virginia? There is still the \$150,000 which the State had put on that road, and for which the State of Virginia had never received payment. This is an accounting, as I take it, between Virginia and West Virginia, and not between the Winchester & Potomac Railroad and Virginia.

The Special Master: Do you look upon a loan which is termed a loan *eo nomine* and treated as a loan as the same thing as an expenditure?

Mr. Lightfoot: Certainly, in this instance, I do.

The Special Master: I mean now, as a legal proposition, do you look upon a loan that is *eo nomine* a loan and treated as a loan, as the same thing as an expenditure?

Mr. Carlisle: And secured as a loan.

The Special Master: Yes, and secured as a loan by subsequent transactions. Do you look upon that, as in a proper sense, what would be called an expenditure?

Mr. Lightfoot: I would not say that a loan and an expenditure are identical terms.

The Special Master: Are they, as a matter of law?

Mr. Lightfoot: They do not import the same thing.

The Special Master: Of course I have got to be governed somewhat, I suppose, by legal definitions and legal principles in reaching my conclusions. The question in my mind is whether there is legally, within the meaning of this decree, a scientific line of demarkation between a loan and an expenditure. Of course I understand an expenditure, when I use that term, to be a disbursement of money that is not expected to be returned. I understand a loan to be an advancing of money with the expectation of its return. The question is whether there are legal principles that I must be governed by in differentiating between the two.

Mr. Lightfoot: I should say—

The Special Master: I simply want to get your view. You need not be embarrassed by expressing any view you have.

Mr. Lightfoot: I am satisfied that a loan and an expenditure are not identical.

The Special Master: We will have to start out with that, then.

Mr. Lightfoot: But, I am also satisfied that the money expended by the Commonwealth of Virginia or the loan made by the Commonwealth of Virginia to the Winchester & Potomac Railroad, was not a loan made, in the first place, for profit to the State, as a loan company would make it. It was not a loan made as a friend would make it. It was called a loan to the Winchester & Potomac Railroad, but it was, in all effect and for all purposes, exactly the same expenditure of money that went into the stock company, with the exception that the Winchester & Potomac Railroad was to be temporarily relieved by the application of this money. The payment of the State for subscriptions to stock was a permanent advancement to the company.

The Special Master: Is there not this distinction? Of course if it was all intended to be covered by the same considerations as a

subscription to stock, there would not seem to be any good reason why it was not included in stock subscriptions, would there? That is, if the State and the company understood it was to be treated by the same considerations and meant substantially the same thing, there would not seem to be any good reason why it was not all included in a stock subscription, would there?

Mr. Lightfoot: No, I do not know that there would.

The Special Master: Now, is there not this distinction between the loan and the subscription to the stock? The State subscribed to the stock and paid its money over. It never expected to get that money back that it paid for stock, except perhaps on the supposition that there might ultimately be a dissolution of the corporation, but of course that is beyond the practical conception of the parties. There is no expectation of the return of the money paid for the subscriptions to the stock, except that the State might expect to get some dividends. Now, is not the legal distinction between the two the fact that the State did expect to get its money back?

Mr. Lightfoot: I should say so. The State undoubtedly did expect to get its money back.

The Special Master: The question, then, comes to me whether I could properly hold that a loan which the State expected to receive back and ultimately did receive back in part, was in any proper sense an expenditure.

Mr. Lightfoot: If your Honor please, I think this is undoubtedly true; the expenditures of the State for the purpose of its internal improvements might take many forms. It took the form of an appropriation directly from its treasury to the Northwestern Turnpike road; that was purely for the purpose of developing that Northwestern Turnpike road. It took the form of an expenditure for the stock of a turnpike company; that was directly for the purpose of the development of that turnpike. Now, might not an expenditure of the money of the State take the form of a temporary deposit to the use of a company, to be returned to the State, and, if necessary, be at once turned over for the temporary relief of another corporation?

In other words, what the Wheeling Ordinance contemplates and what the decree of the court contemplates is what money went out of the treasury of the State for the development of its internal improvements and is a loss to the State, that is, has not been gotten back to the State treasury during this time of accounting.

That \$150,000 has no different characteristic so far as the ac-

counting between the two States goes, from the \$120,000 which it put into the stock. The original purposes might have been different; but the effect, so far as this accounting goes, is the same. There are no distinguishing characteristics that I can see.

The Special Master: Now, would not that argument stand with greater force upon the general equities of the situation rather than upon the specific methods provided by the Wheeling Ordinance? Of course you take the Wheeling Ordinance and you have various elements that that ordinance defines as entering into the settlement of this controversy.

Mr. Lightfoot: Yes, sir.

The Special Master: And it will be necessary for the parties on each side to bring themselves reasonably within those provisions on the questions both of liability and the right to a credit. The question of the equities undoubtedly is entitled to more or less consideration in reaching a conclusion as to what the specific provisions of the ordinance may mean, or how it might be considered. I suppose if it stood as an equal proposition, that is, as a matter of reasoning as to what construction should be placed on the provisions of the ordinance, and the equities were strongly one way or the other, the equities might carry the construction that way; but in the last analysis, when we get to the equities of the provisions of the ordinance, you have got to construe the language and then bring yourself within that construction; should you not say?

Mr. Lightfoot: I should say so.

The Special Master: Then the question would come how far these general equitable considerations are entitled to weight in construing the provisions of the ordinance or to the decree, which practically are the same.

Mr. Lightfoot: I should say the legal construction of legal language would not depend so much on its dictionary meaning as it would on the light of the circumstances under which it occurred.

The Special Master: You have got to take the context and the circumstances under which it was used and reach what is a legal construction from all those conditions.

Mr. Spooner: That is, you refer to circumstances, if there is ambiguity.

The Special Master: Yes.

Mr. Spooner: If there is no ambiguity, you do not.

Mr. Lightfoot: The question, then, of whether the loan was an expenditure in that section—

The Special Master: Then of course you have got the context of your acts. You have to construe it altogether, as a whole.

Mr. Lightfoot: We will leave that to the consideration of the Master; but the point on which I insist is that the \$150,000 is still out of the coffers of Virginia.

Mr. Anderson: And the \$120,000, too.

Mr. Lightfoot: Yes; and the \$120,000, too. The whole \$270,000 went out of the treasury of Virginia and has never returned.

The Special Master: Your proposition practically comes to this, as I understand it. There were three methods that it was open to the State of Virginia to adopt in connection with the development of these internal improvements. They could apply the money directly, that is, by a specific investment under their own charge; they could do it through the medium of a corporation, by purchasing its stock; they could also do it by loaning to the same corporation certain sums of money; and money that is attributable to either of these three methods, in your judgment, would be proper to be included under paragraph 3?

Mr. Lightfoot: Certainly; that is my contention, but as to the loan, qualified by the supposition that it was not, as in this instance, repaid to the State January 1, 1861. In such case a loan becomes an expenditure.

Let me read again the language of the board of public works for the year 1841. Your Honor will remember that this was in connection with their report on the Winchester & Potomac Railroad Company. On page 9, after speaking of the heavy outlays for rolling stock, roadbeds, etc., they say:

“The result has generally been that the companies have found the *aid* so liberally extended to them in the shape of loans very inadequate to their real necessity. They are mostly still involved in heavy debts, exclusive of those to the State, and the urgent demands upon them for the payment of principal and interest which they are compelled to meet promptly in order to keep their work in operation, absorb their property to such an extent as to deprive them, in a great measure, of the ability to keep the roadbeds and the motive power, and so forth, upon them in the perfect order they should be to insure regularity, safety and expedition.

“It must be remembered that these improvements were not fostered by the legislature through *contributions in subscrip-*

tions and loans merely as investments of so much money in profitable stocks, but that they were actuated by a higher consideration, that of promoting the prosperity of the State at large by contracting to build up the local prosperity of its different sections.” (Italics not in original.)

It is clear from this language that the “contribution” of this \$150,000 was intended to be returned to the State; it is also clear that it was not returned although the State was eventually paid all interest due upon it. On January 1, 1861, therefore, the situation was this: The State had “contributed” from its public moneys \$150,000 toward the building of a railroad partly in what is now West Virginia territory, and the public treasury has never been reimbursed that sum. In this accounting, I see no distinction which can be drawn between that situation, so far as the propriety of a charge against West Virginia for her proportionate share is concerned, and a case in which old Virginia had “contributed” the \$150,000 *without* hope of its ultimate return. The bonds of the old State were issued for that “contribution,” and old Virginia had these bonds to pay.

The Special Master: When I suggest any of these contentions, I do not want the counsel to feel narrowed by any suggestions I make. I am simply putting them sometimes so that I get in my mind exactly what I understand the contention to be.

Mr. Lightfoot: The Berryville & Charlestown Turnpike Company, the charge for which the defendant has reduced, it is the sixth item, has a very simple history. It will be shown to your Honor by the reading of a statute, with which I will content myself, without going specifically into that. It was simply this—

The Special Master: They admit there their proportion of the sum paid to buy the mortgage?

Mr. Lightfoot: Yes.

The Special Master: That is, paid on the mortgaged sale?

Mr. Lightfoot: Yes.

*The Special Master: But they do not admit the principal sum?

Mr. Lightfoot: It was a subscription.

The Special Master: The original investment in the stock, was it? Was that a stock company?

Mr. Lightfoot: Yes, sir.

The Special Master: Then that comes down to the same proposition, so far as that is concerned. They do not admit the original

investment in the stock of that company, but they do admit their liability for the sum paid by the State on the mortgaged sale; that is, their proportion of it.

Mr. Lightfoot: That is it.

The features of the Kanawha Turnpike and the Kanawha improvements have all been gone into with some care.

I will now take up the three roads, the Brandonville, Kingwood & Evansville road, the Clarksburg and Buchannon turnpike, and the Kingwood and West Union turnpike, to which these defendants take exception on the ground, so far as I understand it—and it has been stated specifically by Mr. McClintic and Professor Hogg—that the appropriation of this money to those roads for macadamizing purposes was a gift from the State of Virginia to those roads. I do not think that can appeal to your Honor with any force.

The State of Virginia in its internal improvement policy, as has been outlined to you here, could just as directly take money out of its treasury and put it on the development of a road by macadamizing it, as it could by its own State agencies own that road, and open it up and develop it, as it did the Northwestern Turnpike from Staunton to Parkersburg.

Mr. Spooner: Suppose it was owned by a corporation.

Mr. Lightfoot: As in this case it was. In this case it was owned by a corporation.

The Special Master: Your contention is that notwithstanding that, it was still expended within the limits of West Virginia, I suppose.

Mr. Lightfoot: Expended within the limits of West Virginia; yes, sir—expended by the Commonwealth and expended between March 19, 1823, and January 1, 1861, and for the sole and only purpose of producing a good road.

The Special Master: Expended on a public improvement?

Mr. Lightfoot: On a public improvement.

The Special Master: You say that notwithstanding it was the property of a private corporation, it was an improvement located within the limits of West Virginia, and the money of the State was directly expended on it?

Mr. Lightfoot: Certainly.

The Special Master: That is, it was an expenditure directly within the limits, although the advantage that resulted, so far as the corporation was concerned, was that the corporation owned this property. That is the proposition, as I understand it.

Mr. Lightfoot: I think it will be illuminating to the court to have a clause of that read.

The Special Master: Virginia's proposition, as I understand it, is that the expenditures within the limits are not confined to expenditures, perhaps, on the property of the State, but they are entitled to charge expenditures which the State did make, although they were on the property of a public service corporation, and the land was located within the limits of West Virginia. Do I get that right?

Mr. Anderson: Yes, sir; if I understand you right.

Mr. Lightfoot: If the Master please, I will go now to the subject of surveys. The questions as to the Harper's Ferry raid and the school commissioners, I will not attempt to go into. They have been discussed and probably will be discussed further.

I want the court to understand the subject of these surveys. The acts that are printed here, I may say, are not all the acts referring to surveys, but they are acts referring to items included in the surveys, and they are illustrative of the point I wish to make.

Here is "an act directing the survey of the Shenandoah River, and the country adjacent thereto, and the South Branch of the Potomac."

"1. Be it enacted by the General Assembly, that the *ex-officio* members of the Board of Public Works be, and they are hereby authorized and required to direct the civil engineer of the State, or one of his assistants, during the present year, to examine and survey the Shenandoah River from its mouth to the highest point capable of navigation, and also the Shenandoah Valley on each side of the Massanutten Mountain, with a view of ascertaining the practicability and relative advantages and disadvantages of the improvement of said river by locks and dams, or by a canal, or of a railroad through the said valley; and to estimate the cost of each method of improvement, and report the result of his examination to the said *ex-officio* members of said board, that such report may be laid before the next General Assembly."

Your Honor will note that this was an expenditure to ascertain whether or not the proposed improvements were practicable. In that case they employed the State engineer.

Now, let us see this next one, of March 6, 1835:

“Be it enacted by the General Assembly, that as soon after the passage of this act as it may be convenient, it will be the duty of the Board of Public Works to appoint a suitable person to make a geological reconnoissance of the State, with a view to the general geological features of our territory, and to the chemical composition of its soils, minerals and mineral waters, and to report to the next General Assembly a plan for the prosecution of a geological survey of the State together with such facts as may have come into his knowledge during the progress of said reconnoissance, illustrative of any advantages likely to accrue from a more complete examination.”

In that case the board of public works were authorized to employ an outside man to do this work. You will find that to be true of the Elk River survey.

The Special Master: How about that particular expenditure? Does it appear in this item?

Mr. Lightfoot: It is included in this.

The Special Master: The amount claimed by Virginia is \$106,416.14. You take the total, \$250,206.56, and while you are not able to ascertain what we call the direct expenditure, that is, the exact cost in the locality. You apportion the cost in what way?

Mr. Lightfoot: Well, none of these surveys, as I understand, have been charged, except where they were absolutely allocated to West Virginia.

The Special Master: Now, you have “surveys, total expenditures, \$250,206.56.”

Mr. McClintic: That is the expenditure in the whole State, as I understand.

The Special Master: Yes; but here is the whole amount claimed by Virginia against West Virginia, \$106,416.14. Now, I want to get at how they reach that amount.

Mr. Lightfoot: That represents the entire expenditure, wherever it could be located absolutely as pertaining to West Virginia, on mileage and percentage. Take an interstate road. Where the item of survey could be distinguished from the other expenditures, that item was divided exactly as the item of construction would be.

The Special Master: Pro rata on the mileage?

Mr. Lightfoot: Pro rata on the mileage.

The Special Master: Now, how did you treat the matter of the salary of the State engineer and the expenses of the bureau, if there

were any expenses? The suggestion is made that there were, in connection with this item, quite a number of thousands of dollars, which were a common expense, and that here is a man on a salary, and during the year when he is earning that salary, there might be half a dozen improvements, or a great many more, which may wholly or in part be in West Virginia, and others of which may be wholly or in part only in Virginia. How did you treat the question of his salary?

Mr. Lightfoot: That was stated this morning, according to my memory, that where that salary could be definitely located on a particular road for a particular purpose, it was charged for direct construction on the mileage basis.

The Special Master: How are you able to get at it? How are you able to tell from the accounts of Virginia, how much time the engineer spent, or how much of the expense of his office was properly predicable upon that particular improvement?

Mr. Lightfoot: The reports of this board of public works abound in such information. The engineers themselves made report back to the board of public works, in frequent instances, of the time spent. But, if the court please, that is an agreed amount. The accountants have agreed on that.

The Special Master: Yes; but that is composed in part of expenditures that were made wholly in West Virginia, and in part of expenditures that result in an apportioning of the salary. Do I get that right?

Mr. Harrison: I am informed by Mr. Potter that the accounts were kept with each survey on the books of the Commonwealth, from which they took the accounts.

Mr. McClintic: I beg your pardon. It was absolutely settled yesterday that there was \$35,000 of Crozet's salary included, and he was a State officer drawing a stated pay by the year.

The Special Master: Of course if there were accounts kept by Virginia during that time which charged these improvements with the total expense of the survey, that is one thing.

Mr. McClintic: That is the reason I said it was an ordinary expense. He was a State officer, like the Governor or any other State officer, receiving a salary, and the view I take of it is that it is under ordinary expense.

The Special Master: I catch the force of your argument, and that is why I want to get at this. If it is a fact that this amount results from the books kept at that time, contemporaneous accounts,

showing the expense of these various surveys, charged up by the proper office, that comes pretty near dividing the expense.

Mr. McClintic: It does not, as I understand, do that. I understand it was not kept in that way, as to the salary of the fixed officers.

The Special Master: If they have only included in this item the sums charged against these various enterprises, if they do not include the salaries of the officers, you are not charged with it. If it does include the salaries of the officers, it is simply the computation made at the time by the parties who performed the services, and who made the charges, which would be as accurate a way as you could get of dividing those expenses. Of course we may as well understand about that.

Mr. Conley: Your Honor, it was admitted yesterday that \$35,000 of that was for the salary of the chief engineer.

The Special Master: Yes; but that does not go quite far enough to reach the point. If the \$35,000 of salary is included in the aggregate, and is not derived from these accounts kept in this way, that is one thing.

Mr. Spooner: With due respect to Mr. Potter, we would not want to say finally about that in the absence of our experts.

Mr. Harrison: Mr. Dixey is right here.

Mr. Soopenr: I did not know he was here.

The Special Master: You will have plenty of time to look that over between now and Monday.

Mr. McClintic: I thought it was clear yesterday, but there seems to be a change again. I want to go over it.

Mr. Dawson: There is another point that occurs to me—whether, that being so, it is still an expenditure, or a part of the engineer's expenses of the State.

The Special Master: I want to know, in any event, what the real fact is, because otherwise I do not have an intelligent basis for reaching a conclusion.

Mr. Lightfoot: Without discussing in advance the probability of the fact that this expense of the general engineer is included in there, the view I would take of it would be this. The proportion of the salary of the general engineer, so far as absolutely located in West Virginia, or so far as located on a mileage or percentage basis, which has been agreed on by counsel, really is not distinguishable from the salary of a man employed specifically for the purpose, who worked altogether in West Virginia. One is just as much an ex-

pense as the other, and if the salary of the engineer is put in there, it is an agreed item by the accountants that that much of his salary was applicable to West Virginia by agreement of the accountants, that feature is not in issue. They say that this agreed sum, admittedly allocated to West Virginia is an ordinary expense. We say it is an expenditure—

The Special Master: If the aggregate of salary is in this item of \$250,206, it ought not to be included at the same time in the ordinary expense account.

Mr. Harrison: It is not.

Mr. Lightfoot: It is not. There is no double charge there whatever.

The Special Master: Well, we want to be sure about that, of course, and see what the fact is.

Mr. Harrison: Yes; but there is no question about that.

Mr. Spooner: I intend to contend that on a reasonable construction of this ordinance, almost a necessary one, looking at it as a whole, nothing here is chargeable as a direct expenditure, if I may use that word without giving offense, that is not in law an ordinary expense.

Mr. Harrison: You say you will contend what, Senator? That your construction of the ordinance is what?

Mr. Spooner: That nothing can be charged as an expenditure within the limits of West Virginia that in law constitutes an ordinary expense, instead of a direct expense.

Mr. Hogg: That is a plain proposition.

Mr. Lightfoot: Within a very few moments I wish to conclude, your Honor, by explaining, in order that you may have a clear understanding, the significance of plaintiff's Exhibit E-4 and 5, in connection with the fair estimated valuation of real property. The discussion has been quite general as to the assessment of personal property.

The special Master: How long will you want on that, Mr. Lightfoot?

Mr. Lightfoot: Fifteen or twenty minutes. I could take it up in the morning.

The Special Master: If it will take you that length of time, I am inclined to think that perhaps it may be as well to suspend now. I have made arrangements so that I will have to take up something else shortly. You would prefer to have an opportunity to go on, I suppose, so that you will not be hampered for time.

Mr. Lightfoot: Yes; twenty minutes on Monday morning will be sufficient.

The hearing was thereupon adjourned until Monday, November 8, 1910, at 10 o'clock A. M.

New York City, November 8, 1909.
10 o'clock A. M.

The hearing was resumed before the Special Master at 10 o'clock A. M.

ARGUMENT OF JOHN B. LIGHTFOOT, JR.

(Resumed.)

The Special Master: You may proceed, Mr. Lightfoot.

Mr. Lightfoot: If your Honor please, at the adjournment on Saturday, I had practically concluded the remarks I desired to make under paragraph 3 of the decree, but in order that your Honor may be saved the trouble of too much research after the evidence in certain matters, I wish to call your attention to what I consider the great discrepancy between the contentions of the defendant regarding the Winchester & Potomac Railroad and the effect of the enactments of the General Assembly on that subject, and I will refer you particularly, without reading it, to the evidence as set out on pages 460 to 463 of the record, on page 480, and page 489, and will state that the effect of that evidence is that the defendant and its accountants have construed the acts of Assembly affecting the Winchester and Potomac Railroad to have the effect of merging the stock of the State which was issued both for the \$120,000 subscription, and the \$150,000 loan into the \$83,333.33, which is shown to be the principal of the annuities. In fact they so state in all of the references which I have made.

The Special Master: Do I understand that the \$150,000 loan was commuted into stock?

Mr. Lightfoot: I wish to convey the impression that that is the statement of the defendant.

Mr. McClintic: No; we do not say anything of the kind.

The Special Master: I did not understand it to go as far as that.

Mr. Lightfoot: If there is any question on that subject, I will

not take time to read the evidence, but I will leave the decision of that matter to your own reading of the evidence, to which I have referred.

The Special Master: I am very glad to get your reference to that, calling my attention specifically to that point.

Mr. Lightfoot: Those are the direct statements made. Then I wish to refer your Honor to the Acts of Assembly as printed in the Appendix, and which will be found at pages 27 to 32, inclusive, and I invite your comparison to the difference between the effect of the acts and the evidence to which I have referred.

With reference to the Trans-Alleghany Lunatic Asylum, your Honor's attention is also invited to the evidence as it appears in this record, and which you will find more specifically set out on pages 406 and 407, 452, 459, 471, 484, 485, 510 and 512, which will give your Honor a very clear insight into the history of that asylum. And then to refer you to the Acts of Assembly which are printed in connection with it; and also, as a matter of interest to your Honor, if you care to read it, this recital of the events connected with that \$27,000 as set out by Mr. Virgil A. Lewis, in his History of West Virginia, at page 370, to the reading of which as evidence, I think there was some objection, and which I do not wish to constitute evidence any further than your Honor may desire.

The Special Master: What is your own view about its being affirmative evidence of any fact that may be controverted; that is, about its being legally competent evidence?

Mr. Lightfoot: I think that in this matter—

The Special Master: The question is whether the recital of a history of this sort would be legally competent evidence to establish an independent fact in the controversy, as distinguished from a general record of historical transactions.

Mr. Lightfoot: I think that in so far as it corroborates the evident effect of the acts of the General Assembly and of the testimony concerning the asylum, it may properly be considered by the Master, not as probative, but as persuasive.

The Special Master: The fundamental distinction is whether or not it is legally probative, and whether it be or be not corroborative? Is that the test? Of course a piece of evidence is not admissible or inadmissible as to the effect it may have upon the issue, but it is admissible as to whether or not it has the proper legal relation to the issue. Do I make myself clear?

Mr. Lightfoot: I understand your point.

The Special Master: I have not examined this question. The difficulty in my mind, if this is material, is whether as a matter of law the recital in a historical work, as this may be assumed to be, perhaps, would be legally competent to establish an independent fact, as distinguished from a general historical condition.

Mr. Carlisle: A particular fact in controversy in the case?

The Special Master: Yes; that is what I mean; or, in other words, whether that would not come within the designation of hearsay.

Mr. Anderson: It seems to me it is proper, for the same reason that reference to history is proper as a historical event. This was a military movement incidental to the war at that time, narrated by Mr. Lewis. He holds the official position of archivist of West Virginia to-day.

Mr. Mollohan: But he was not when he wrote that book.

The Special Master: That would go more, perhaps, to the value of the evidence than to its legal competency. I suppose the authorities settle this question without any difficulty. Of course where there is any question here on the legal questions involved, I would like to get the benefit of the research and investigation of counsel in support of their various contentions on it. That would perhaps save me the difficulty of making the original investigation. I am not familiar with this question. Of course I have a general notion about it that any of us would have in the profession, but my notion would be that there would not be difficulty in finding authorities to determine it.

Mr. Anderson: We only wish it to go in as a reference to a historical event.

The Special Master: I get your suggestion now. I wonder if this is where I can reach it anywhere. If it is not, we will have to read into the record now. Suppose you read this right into the record, Mr. Lightfoot. Then I will be saved looking up the book.

Mr. Lightfoot: I will do that, for any value it may have.

The Special Master: Of course it is read in and used subject to whether or no it is competent. If it is corroborative of the other evidence in the case, perhaps it may not be altogether material; that is, if the evidence is substantially all one way.

Mr. Anderson: I do not think it is inconsistent with any other evidence in the case.

The Special Master: If it is simply cumulative, and there is only

one line of testimony on that proposition, and perhaps a very feeble line of testimony—

Mr. Carlisle: There is only \$27, 000 involved in it.

Mr. Anderson: That is all, and there has been an hour or two spent on it already.

The Special Master: You may read it, Mr. Lightfoot.

Mr. Lightfoot: If we do not care to take the time to read it in, the stenographer could copy it.

The Special Master: Very well; he can do that, and that will save me looking up the book, so that if I conclude it is proper and necessary to be referred to, I can have it in my hands.

The passage referred to is as follows:

(History of West Virginia, by Virgil I. Lewis, page 370):

“Early in the spring of 1861, the Richmond State Government sent \$30,000 in specie to Weston, where it was deposited in the Exchange Bank of Virginia, to be used in paying for material and work on the Trans-Alleghany Asylum at that place. On the morning of the first of July, 1861, Governor Peirpont appointed John List agent to repair to Weston and secure the money, and at the same time telegraphed General Rosecrans, then in command of the Federal troops at Clarksburgh, requesting him to detail a detachment of cavalry for twenty-four hours secret service. List reached Clarksburgh in the afternoon and found the troops in readiness. Leaving that town at dark, the long silent ride continued throughout the night, and at daylight on the morning of the second, the roads leading to and from Weston were strongly picketed. List called on the cashier and demanded the money. The latter claimed that there was a large amount due for labor. List, however, took \$28,000, and with his escort returned to Clarksburgh, whence he conveyed the money to Wheeling. It was placed in the banks in that city. The president and cashier of the Weston Bank followed, and the matter was at length adjusted by the Wheeling banks giving to the Weston Bank credit for the amount, and in addition for the premium on specie. The money was afterwards used in building the Weston Asylum.

“On the fourteenth day of March, 1862, the Richmond legislature passed an act in the preamble to which it is recited ‘An armed military force, as public enemies, entered the vaults of

the Exchange Bank of Virginia and took therefrom \$27,000 of its specie, and that the said military expedition operated under and in pursuance of orders from a usurped authority claiming to be a government established within the limits of Virginia without authority of the legislature; and further that the money so abstracted was deposited in one or more of the banks of this Commonwealth located in the city of Wheeling, whose officers were co-operating with the professing allegiance to said usurped government, and had notice of the ownership and robbery of such money.' The bill then proceeds to declare how Johnathon M. Bennett, Treasurer of the Realm, may proceed to recover the money.'"

Mr. Lightfoot: If your Honor please, I now leave paragraph 3, and will take up paragraph 5, to the extent of two exhibits, designated as Plaintiff's Exhibit E-4 and Plaintiff's Exhibit E-5, which were prepared by myself.

Mr. McClintic: If you will pardon me just one moment, Mr. Lightfoot, while we are on that little \$27,000, the Master asked for the dates when those sums were appropriated. Mr. Scoville has it in a memorandum here taken from the books of Virginia. It shows that there was \$100,000 appropriated by the Acts of 1859-60, by Act of January 6, 1860. Of that, \$50,000 was paid on the 16th day of January, 1860, and the other \$50,000 was paid and receipted for by J. M. Bennett, Treasurer of the Trans-Alleghany Asylum at Weston, on the 1st day of October, 1860.

The Special Master: And it is in that last \$50,000 that this \$27,000 arises?

Mr. McClintic: Yes, sir.

The Special Master: I wanted those dates, because they come very close to the danger line. If it turned out they were after, that would be one thing. Then for another thing, I wanted to see whether there was any proper differentiation between the \$27,000 of the \$50,000, and the balance of \$23,000. Of course all those things are involved there. I understand that West Virginia concedes that everything except the \$27,000 is a proper charge.

Mr. McClintic: Yes, sir.

The Special Master: And that the \$23,000 and the \$27,000 were received at the same time and under the same circumstances?

Mr. McClintic: Yes.

The Special Master: That raises the subsequent question whether

the disposition of the \$27,000 is to affect my conclusion as to whether or not it was paid in.

Mr. McClintic: Whether it was expended prior to the 1st of January?

The Special Master: Yes; whether it was expended within the meaning of the decree. It reached the hands of the asylum under the same circumstances that the \$23,000 did, and it turns out that the \$27,000 is sought to be accounted for by having been diverted to another purpose. The question now is whether that diversion eliminates it from the element of expenditure. That is it, is it not?

Mr. McClintic: The diversion by the person, not by the government.

The Special Master: Of course when I say diversion it is by whoever it is diverted by. That involves the whole proposition—the diversion and the circumstances under which it was made. The question is whether that eliminates it from the expenditure within the limits of West Virginia.

Mr. Lightfoot: The Attorney-General of Virginia has indicated to your Honor the difficulties which at this date must necessarily accompany the making of a fair estimation of the value of real property in Virginia and in West Virginia as of 1860 and 1863, and it has been stated by him that Virginia, after most careful consideration and examination into the facts, has come to the conclusion that 50 per cent. of the assessed valuation, as appearing on the land books in 1863, is not only a fair estimated valuation, but that as an estimation it is in favor of West Virginia.

It is also shown that the assessments as appearing on the books of 1863, were, in fact, the assessments of 1856, since between 1856 and June 20, 1863, there was no reassessment of lands in Virginia.

It is further the claim of the plaintiff, as stated by the Attorney-General, and we believe conclusively borne out by the depositions which have been taken on behalf of the plaintiff, that the depreciation in the value of that real estate was more than fifty per cent.

The Special Master: What do you say about the proposition as to whether the assessed valuation was probably the fair market value at the time it was made, or whatever it was probably a percentage of reduction on the fair market value?

Mr. Lightfoot: It was probably a percentage of reduction on the fair market value, as I do not believe assessments are made on the full market value at any time. What that percentage is, I do not know. It is always slight. What it is, I am unable to state.

The Special Master: There is nothing in the record to indicate how much that percentage would be?

Mr. Lightfoot: No, sir. It was a matter largely with the assessors themselves.

The Special Master: Would you apply the same reduction of values to all the counties that constituted Virginia at the time the assessment was made, 1856?

Mr. Lightfoot: Yes, sir.

The Special Master: You mean Virginia and West Virginia both?

Mr. Lightfoot: No; as to Virginia.

Mr. Hogg: There were no reassessments in West Virginia.

Mr. Carlisle: As to those counties which now constitute West Virginia, which were at that time under the control of the Richmond Government, they do apply the same rule?

Mr. Anderson: Yes; the same rule.

Mr. Lightfoot: We apply the same rule to those counties in West Virginia which we show in this exhibit we believe to have been for the most part dominated by the Confederate forces. As to Virginia, we apply the depreciated scale to the whole State.

The exhibit marked Plaintiff's Exhibit E-4 is intended to show to your Honor that the value of real estate in Virginia had in fact depreciated on June 20, 1863, at least fifty per cent. compared to its assessed value of 1856, and to my purpose is merely to explain to your Honor this Exhibit, so that when you come to examine it it may be clear to you what the purpose is.

Taking sheet one of that exhibit, which is on page 653 of the record, it shows, and the statement is taken directly from the record books of the Chancery Court of the City of Richmond, which is the court in which deeds are recorded, that on June 22, 1863, Messrs. Wellington Goddin, James M. Taylor and A. D. Williams (who, I may state parenthetically, were men whose names are known in Richmond as more than familiar with all real estate matters) made a report, at the request of the heirs of James Gray, appraising the estate of James Gray for partition. The little map up in the corner shows what that estate was, of what it consisted, and the table following—

The Special Master: Where is your map? I do not see it here.

Mr. Lightfoot: It is on that sheet 1, a little diagram. It is a plat. The exhibit shows that on that date, June 22, 1863, these appraisers found the value of five lots numbered 1, 2, 3, 4, and 5, to be

\$143,000. Applying the scale of Confederate money, which is Plaintiff's Exhibit E-2, page 647 of the record, and which at that time appears to be 7-3/4 to 1, to that \$143,000, we find that its then value on a gold basis was \$18,451.61; in 1863, it is listed on the assessment books of the City of Richmond at \$37,150. That is to say, on the land books in the Auditor's office it appears that that particular lot of property was assessed at \$37,150.

Mr. Hogg: The same as 1856.

Mr. Lightfoot: The same as 1856; that in 1856 it was assessed at \$37,150, and was brought down in subsequent years until it appears in 1863 at the same figure.

Now, if your Honor please, the conclusion is this: that property appearing on the land books of 1863 for taxation at \$37,150 was appraised on June 20, 1863, at \$143,000; the only possible conclusion and inference being that the appraisers made their appraisal on the basis of Confederate currency.

The Special Master: What is there in the case to show that, except as you infer it from the general conditions?

Mr. Lightfoot: Why, if your Honor please, that in itself would be sufficient, I think. That, under the conditions of the times on June 20, 1863, property could have risen from a valuation of \$37,150 to \$143,000 is impossible. But that it was appraised on a basis of Confederate currency is clear to the mind.

Mr. Hogg: It is probable, you mean.

The Special Master: Is there anything in the case to indicate whether or not there had been any improvement on the property since 1856?

Mr. Lightfoot: Not that is shown. It would be shown, if it was there.

The Special Master: Shown here? In the legislation of 1862?

Mr. Lightfoot: No, the land books would show it.

Mr. Dawson: And there is nothing there to show that there was any destruction of property.

The Special Master: Is it your view, Mr. Attorney-General, that under that legislation of 1862-3, it is to be assumed that the assessors modified the assessments for 1863?

Mr. Anderson: The proof in the case from the oral testimony, the testimony of living witnesses, is that all transactions in the Confederate States and all values were estimated with reference to Confederate money, the standard of value at that time.

The Special Master: But I am speaking now of the assessment

book. I say is it to be assumed, or do you think it is fair to assume, that the assessors, under the provisions of the law of 1862-3 accounted for improvements on the one hand and losses on the other?

Mr. Anderson: Yes, sir; they were required to do so.

The Special Master: Of course it is a physical impossibility to inquire into all these details, and we have got to take this as a whole.

Mr. Anderson: The law required them to do that.

The Special Master: And the law having required them to do that, you think it is a fair assumption, or at least proper to assume, that that duty was properly discharged?

Mr. Anderson: There were no changes made in this assessment from—

The Special Master: I am speaking now generally.

Mr. Anderson: These were improved lots, with houses on them.

The Special Master: I say, do you think it is fair to assume that the assessors discharged that duty?

Mr. Anderson: Yes, sir.

The Special Master: And if there were improvements, they were accounted for, and if losses, they were also accounted for?

Mr. Dawson: But your Honor will remember that the law distinctly provided that these assessments should be on the basis of 1856, not in Confederate currency.

The Special Master: I understand that. Of course if I am to assume that the assessors discharged their duty, they discharged it under the provisions of the law and in accordance with its terms.

Mr. Dawson: Yes; and the law distinctly provided that they should not be in Confederate currency.

The Special Master: Of course that is a matter to be taken into account in applying the effect of the assumption. Richmond is in what county?

Mr. Lightfoot: In Henrico County.

Now, if we follow this down, we find that by reducing this \$143,000, which we show was in Confederate currency, to a gold basis, it is only \$18,451, which, compared with the assessed value is a decrease of \$18,698, or 50.33 per cent.

If your Honor will follow the rest of these lots down, applying the same explanation to them, you will note the percentages of decrease. The next one is 62.35 per cent, then 78.31 per cent.; then 82 per cent.; then 76.71 per cent.; showing the decrease in the

value of real property at this point on June 20, 1863, over its assessed value.

The Special Master: Was this the value of Confederate money on that particular day, this 7-3/4?

Mr. Lightfoot: Yes, sir.

The Special Master: How had the values ranged from the preceding month, or two or three months?

Mr. Lightfoot: If your Honor will turn to Plaintiff's Exhibit E-2, on page 647, it shows that in June of 1863 the ratio was from 7 to 8; as late as June 20, 1863 it has been taken, of course arbitrarily, at 7-3/4.

The Special Master: We have it in March 5, April, 5.50, May 5-1/2 to 6, June, 7 to 8.

Mr. Lightfoot: I could have been as well taken at 8 or 7-1/2. It was taken at the three-fourths period of the month at 7-3/4 this being, of course, an estimate; and that is the purpose of this exhibit.

That is the result of the exhibit, so far as the estate of James Gray is concerned, and all of sheet 1 deals with the estate of James Gray.

The Special Master: When does it appear that this partition was committed to those partitioners?

Mr. Lightfoot: It was not a partition deed, but it was the report of the appraisers for the purpose of partition. It appears that that report was made June 22, 1863.

The Special Master: But when was it committed to them for the purpose of having a report made?

Mr. Lightfoot: That does not show.

The Special Master: Of course all these things may be involved in this. I suppose these suggestions may come from the other side. The report, of course, might have been dated some time after it was actually made, that is, after the results were accomplished. I do not know what criticism may be made, but we know, as a matter of practical operation that if they had this in their hands some little time, they may have reached their result at one time and made their report at another time. I suppose all those things will be insisted upon by them as criticising the correctness of the figures reached. Suppose there was a fluctuation of one dollar in two or three days, and on the particular day when the report was dated, it was \$8 to \$1, and two or three days before it was \$7 to \$1. I would be rather arbitrary to assume that they put it on the basis of eight, because that is a fact they might not have had knowledge of. Of

course these suggestions are all entitled to weight, and I want to get your idea of probabilities.

Mr. Lightfoot: Your Honor will understand that the appraisers did not apply the scale at all. This is a scale applied by myself.

The Special Master: Certainly; the appraisers fixed a value; but if the appraisers fixed a value in Confederate money, that involves the assumption that they knew something about what the value of Confederate money was, does it not?

Mr. Lightfoot: It undoubtedly does.

The Special Master: That is, if they were fluctuating on their values as money went up and down, they must have had knowledge of the value of money in order to reach their fluctuations. Of course it is a difficult and complicated proposition, but one involves the other, does it not?

Mr. Lightfoot: I should say it does; but in order to avoid any elaborate contention of the defendant on that point it would be entirely immaterial to the plaintiff, I should say whether they took seven or eight or any intermediate fraction thereof.

Mr. Carlisle: The defendant will not spend any time on that because we object to the entire evidence. We say it is incompetent.

Mr. Dawson: What court appointed these appraisers?

Mr. Lightfoot: They were not appointed by the court. They were acting at the request of the heirs of James Gray, as stated in their report.

Mr. Hogg: We cannot tell what consideration actuated them. There might be a hundred things.

Mr. Lightfoot: It was a purely private transaction, recorded there in the deed books of the State. The succeeding pages of this exhibit show actual sales. Now, these are not appraisements, but they are actual sales made at the dates respectively shown, and they range all the way from April, 1863, up to August, 1863, as many as could be found in June, of course, having been taken.

The Special Master: Those are all in Henrico County?

Mr. Lightfoot: No, sir: these are in Richmond City, of Henrico County.

The Special Master: The next Exhibit is Henrico County.

Mr. Lightfoot: That is on page 3 of Exhibit E-4.

The Special Master: Sheet 3 of the exhibit. I was anticipating you a little.

Mr. Lightfoot: We will take this one shown on page 464 in the deed book. This is the sale of James E. White and wife to Ezekiel

J. Levy, and transfers 21 feet on the south side of Grace Street, corner 1st, back 156 feet; sold on June 16, 1863, for \$23,500. This property is shown to have been assessed at \$7,000.

The Special Master: Is that on Sheet 2?

Mr. Lightfoot: Yes; the item marked 464. The one below that is a sale on June 23, 1863, within two days of the date mentioned in the decree, and shows that the property sold for \$2,000, assessed for \$1,646. The next one shows that on July 8, 1863 the property sold for \$17,500, assessed at \$7,300; and applying the scale of Confederate currency to gold all of these, the percentage of decrease and the amount of decrease is shown.

The next two sheets are precisely the same, with regard to Henrico County, outside the City of Richmond. Sheet 5 is with reference to Hanover County, and Sheet 6 with reference to Chesterfield County.

The next exhibit is Plaintiff's Exhibit E-5, which is to be read in connection with Plaintiff's Exhibit E-4.

Plaintiff's Exhibit E-5 is nothing but an extract from the land books of the Commonwealth of Virginia, and of the assessments which are shown on these sheets extracted from the land books are the assessments which have been used in making up Plaintiff's Exhibit E-4. In other words, to substantiate the assessments which are shown in Plaintiff's Exhibit E-4, they were abstracted directly from the land books and certified to by the auditor.

The Special Master: In other words, the assessments you have given in your analysis are all grouped together in Plaintiff's Exhibit E-5 and certified by the Auditor of Public Accounts?

Mr. Lightfoot: Precisely so.

The Special Master: That really results in the summary of the preceding analysis?

Mr. Lightfoot: Yes, sir.

The Special Master: And quoad the assessments?

Mr. Lightfoot: Only the assessments.

Mr. Dawson: Mr. Lightfoot, will you allow me to ask you a question?

Mr. Lightfoot: Yes, sir.

Mr. Dawson: For what purpose did you insert Plaintiff's Exhibit E-5?

Mr. Lightfoot: I have just stated to the Master that that was inserted to show not only the accuracy but the authenticity of the assessment figures used in Exhibit E-4.

Mr. Dawson: The assessment figures?

Mr. Lightfoot: Yes, sir; only the assessment figures.

The Special Master: It is by way of corroboration or cumulative. He puts in a certified copy of the record to show that the basis he uses is accurately taken from the records.

Mr. Dawson: I understand, your Honor, that the purpose of Exhibit E-5 is simply to show that this property was assessed at the figures stated in the other exhibits?

The Special Master: That is it exactly, as I understand it.

Mr. Lightfoot: You have such a clear understanding of it that I will not specifically illustrate it. That is precisely what it is.

It was merely my purpose to explain that exhibit so that when you came to examine it its mysteries might be clear, for I well understand that an exhibit of that sort is not in its nature self explanatory.

That being made clear, I have no further remarks which it is considered essential that I should make under paragraph 5 of the decree, or under the other paragraphs.

The Special Master: Now, Mr. Lightfoot, how many counties did you then have in Virginia? You have given us some extracts, as shown by the records, of three counties. How many counties in all did you have?

Mr. Anderson: There were then 99 counties in what is now Virginia. There are 100 now, but one has been created since then.

The Special Master: Now, these three counties, Henrico, Hanover and Chesterfield—

Mr. Lightfoot: And Richmond City.

The Special Master: Is Richmond City a county by itself?

Mr. Lightfoot: No; it is a separate jurisdiction. All the records are separate.

The Special Master: That is in Henrico County?

Mr. Lightfoot: Yes, sir.

The Special Master: Are those the three counties that were the principal theater of war?

Mr. Lightfoot: No; by no means. Those were the three counties which were convenient to get at, at the time this exhibit was made up.

The Special Master: You had 99 counties in all in Virginia. We have records now from three.

Mr. Lightfoot: The depositions which the plaintiff has intro-

duced also show the records from Westover, in Charles City County, and of Moss Neck, a large estate in Caroline County.

The Special Master: That makes five counties in all?

Mr. Lightfoot: Yes, sir.

The Special Master: Were they counties that were reached by the war prior to June 20, 1863?

Mr. Lightfoot: At least Caroline was.

The Special Master: How about Henrico County? I have not the historical chronology in my mind.

Mr. Lightfoot: There was comparatively little ravaging in Henrico County, if any.

Mr. Anderson: Or Chesterfield.

The Special Master: You mean prior to June 20, 1863?

Mr. Lightfoot: Yes, sir.

Mr. Anderson: But there was the exhaustion of the war.

The Special Master: I understand. How many of the 99 counties in Virginia at that time were there that had practically not been ravaged at all, if there were any?

Mr. Lightfoot: Your Honor is speaking of historical matters with which I am not personally familiar. I could not state that with any degree of accuracy whatever. I would not attempt to do so.

The Special Master: Take a county in Virginia that had not been ravaged by the war, assuming that there was such, I do not know what the facts may be, but assume that there was such, for instance.

Mr. Anderson: Bedford County.

Mr. Moon: Chesterfield County was not touched by the war.

Mr. Anderson: Chesterfield was not hurt at all. The Federal soldiers never held it, until just about the close of the war. Prior to 1863 they had not held it at all, had not been in the county.

The Special Master: The question that labored in my mind was whether the valuation taken from these five counties—were any of these affected by the war?

Mr. Anderson: They were all affected by the war.

The Special Master: I mean directly. Had there been any ravaging in either of them?

Mr. Anderson: Not by the Federal troops, except that the lower part of Henrico County, very near Richmond, was occupied by General McClellan's Army in 1862. It was not ravaged much by

General McClellan's army, but the personal property was consumed, the fencing and things like that.

The Special Master: Do you agree with Professor Hogg in his suggestion that substantially all the ravaging or destruction of real property, and perhaps personal property, occurred after June 20, 1863?

Mr. Anderson: No, sir; not at all, and our proof shows it is not so. The whole Northern Neck of Virginia was ravaged. The evidence shows that.

The Special Master: The only question I was trying to get at was what weight I was entitled to give to testimony coming from two or three counties as to all the 99 counties from which I assume it is admissible.

Mr. Conrad: Testimony from witnesses who are among the most intelligent men in Virginia, men of the highest character, shows that all the Peninsula was ravaged, that the country around Norfolk was held by the Federal troops from early in 1862 down, that the whole Northern Neck of Virginia and northern Virginia from Culpeper up to the Potomac, was held and ravaged, the fences destroyed, and very much injured.

The Special Master: Is it your contention that the depreciation of real estate was on a general level all over the State?

Mr. Anderson: Our contention is that that is the minimum of the assessed value of 1856 over the whole State; that it was a great deal more than that in some of those counties.

Mr. Lightfoot: I would like to put this point of view on record for your future reference. If, as your Honor has suggested, the record as here designated in Plaintiff's Exhibit E-4, taken from counties which it is conceded that at that time either were not injured, or never ravaged at all by the direct injuries of the war, or very slightly, show as a result of this evidence a depreciation of at least 50 per cent., then it is not a violent conclusion that if we had taken out instances from counties which had been ravaged by war and which were in the hands of the contending armies, the ratio of depreciation would have been much larger than is shown in even these counties. Therefore if the depreciation in the counties in the instances here shown is 50 per cent., it is a very fair presumption that it was at least 50 per cent. in the other counties of the State where the contending armies were operating. I just put that in for your consideration.

That is all I have to say.

IN THE
Supreme Court of the United States

OCTOBER TERM, 1907.

No. 4, Original.

COMMONWEALTH OF VIRGINIA,
Complainant,

v.

STATE OF WEST VIRGINIA.

I, CHARLES E. LITTLEFIELD, SPECIAL MASTER APPOINTED UNDER AN
ORDER MADE IN THE FOREGOING CASE, RESPECTFULLY SUBMIT
THE FOLLOWING REPORT:

PARAGRAPH 1 OF DECREE.

1. THE AMOUNT OF THE PUBLIC DEBT OF THE COMMONWEALTH OF VIRGINIA ON THE FIRST DAY OF JANUARY, 1861, STATING SPECIFICALLY HOW AND IN WHAT FORM THE SAME WAS EVIDENCED, BY WHAT AUTHORITY OF LAW AND FOR WHAT PURPOSES THE SAME WAS CREATED, AND THE DATES AND NATURE OF THE BONDS OR OTHER EVIDENCE OF SAID INDEBTEDNESS.

The parties agree to the extent of \$32,919,863.93 upon the amount of the public debt of the Commonwealth of Virginia on the 1st day of January, 1861 (Rec., p. 215). The plaintiff claimed at the time

of making the joint schedule A-1, p. 1, that there should be added to this aggregate:

First—

Unpaid and accrued interest from July 1st, 1860,
to December 31, 1860, on the public debt..... \$ 977,209.89

Second—

Bonds of the Commonwealth of Vir-
ginia, held by the Sinking Fund....\$ 1,329,557.20
Unpaid and accrued interest as above.. 39,686.72

Total 1,369,243.92

Bonds of the Commonwealth held by
the Board of Public Works.....\$ 146,500.00
Unpaid and accrued interest as above.. 4,395.00

Total 150,895.00

Bonds of the Commonwealth held by
the Literary Fund..... 1,085,067.33
Unpaid and accrued interest as above.. 31,776.02

Total 1,116,843.35
(Rec., p. 215.)

These items were all in the first instance contested by the defendant. The item of \$977,209.89, unpaid and accrued interest, is conceded by the defendant and I treat it as a part of the public debt.

It is conceded that the bonds held by the Board of Public Works were bonds of the Commonwealth placed in its hands for sale in connection with the prosecution of the works under its charge, but that the bonds referred to were never issued, and therefore never became a part of the public debt. For this reason this item has been withdrawn by the plaintiff.

There remains in controversy the bonds in the Sinking Fund and the Literary Fund. Whether the bonds of the State held by these two funds are within the meaning of the Decree, a part of "the public debt of the Commonwealth of Virginia" is the question. This involves a review of the constitutional and statutory provisions creating them.

SINKING FUND.

The Constitution of Virginia required the maintenance of a Sinking Fund to

“be applied to the payment of the interest of the State debt and the principal of such part as may be redeemable. If no part be redeemable, then the residue of the Sinking Fund after the payment of such interest, shall be *invested in the bonds or certificates of debt* of this Commonwealth or of the United States or of some of the states of this Union, and applied to the payment of the state debt as it shall become redeemable.”

(Con. Va. Art. 4, Sec. 29, p. 47.)

The sum necessary was to “be set apart annually from the accruing revenues.” (Con. Va., Art. IV., Sec. 29; Code Va. 1860, p. 47.) Proceeds of the “sale of the stock held by the Commonwealth for internal improvement and other companies, if made before the payment of the public debt” were to “constitute a part of the Sinking Fund” (do. Sec. 30). The “Auditor of Public Accounts, Register and Secretary of the Commonwealth for the time being” were constituted a “corporate body under the style of ‘The Commissioners of the Sinking Fund’ * * * For the purpose of managing, preserving and applying the Sinking Fund created by this Act.” (Code of Va. 1860, Chap. 44, sec. 6, p. 261.) The Auditor of Public Accounts was required, “to pay into the Treasury of the Commonwealth [not the Treasury of the Commissioners of the Sinking Fund] annually thereafter out of the accruing revenues” the specified “portion of the sum set apart for the Sinking Fund”. He was also required to “pay into the Treasury to the credit of said Fund” the amount of the semi-annual interest. (do. Chap. 44, sec. 4, p. 260). To provide for subsequent debts, he was also required to “pay in like manner into the Treasury”, that is, of the Commonwealth, “to the credit of the Sinking Fund, one per centum, &c.” and also “in like manner into the Treasury to the credit of the said fund * * * the amount of the semi-annual interest”, and in case of coupon bonds, the “amount of the interest” was to be “set apart and paid into the Treasury to the credit of said fund” thirty days in advance of their becoming due. (do. Chap. 44, sec. 5, p. 261.) It was “their duty to apply the moneys appropriated out of the said Fund to the payment of the interest and redemption of the principal of the State debt,” &c., and to “invest any part of the

appropriations * * * which cannot be so applied to the purchase of public stock" (do. Sec. 7, p. 261). Instalments of interest and sums for the redemption of any part of the principal of the debt were to be paid by special order of the Commissioners entered on their minutes authorizing "the second auditor to issue his warrants on the treasury". (do. Sec. 10, p. 261.) The second auditor was required to "keep the accounts of the Sinking Fund with the Treasury in such manner as to show distinctly at all times the amount of the transactions on account of each appropriate head of receipts and expenditures," (do. Sec. 13, p. 262).

"All moneys belonging to the Sinking Fund shall be paid into the Treasury on the warrant of the second auditor and shall be paid out in like manner when authorized by the Commissioners of said Fund" (do. sec. 14, p. 262).

"The Treasurer [State Treasurer], shall receive and pay the moneys belonging to the Sinking Fund as herein required. He shall keep a distinct account of the same and report to each session of the Legislature the aggregate receipts and disbursements on account thereof * * * " (do. sec. 15, p. 262).

The Treasurer of the Commonwealth was required to

"keep separate accounts of the money *belonging to the Literary Fund*, to the Fund for Internal Improvement, *to the Sinking Fund* and to the Washington Monument Fund, showing the receipts and disbursements on account of each" (Chap. 45. Sec. 31, p. 270).

Semi-annual interest on the debt of 1839 was to "be paid out of the Public Treasury" but no part of it "out of the Sinking Fund," thus recognizing the Sinking Fund as being in the Public Treasury (Chap. 44, Sec. 19, p. 263).

LITERARY FUND.

By an Act passed March 3, 1819 (Rev. Code of Va., 1819, Vol. 1, page 82,) certain public officials were

"constituted a body corporate and politic under the denomination of the President and Directors of the Literary Fund, with

power to sue and be sued, plead and be impleaded, and to hold lands and tenements, goods and chattels, and the same to sell, dispose of or improve for the purposes hereafter mentioned” (Chap. 33, Sec. 6).

and

“All sums of money which have accrued or may hereafter accrue to the Literary Fund in consequence of the appropriations thereto already, now or hereafter to be made,”

were vested in said persons (do. Sec. 6).

Actions were authorized to be brought “in the name of the said President and Directors” (do. sec. 7), and in an Act consisting of 22 sections an elaborate plan for the management of the Literary Fund was prescribed.

March 2, 1821, “An Act concerning the Literary Fund” was passed (Act of Va., 1820-1821, p. 12). It repealed “all acts and parts of acts coming within the purview of this Act,” (Sec. 13, p. 14). It changed the personnel of the Board (Sec. 1). It did not vest in them the money which was vested in the original board. It provided “that all moneys accruing for the benefit of the Literary Fund” should “be paid into the public treasury and shall be kept by the Treasurer of the Commonwealth *ex officio* in the same manner that *other public moneys* are kept by him except only that there shall be a separate account raised therefor in the name and for the benefit of the Literary Fund” and that it should only “be checked or drawn for in his official capacity as such Treasurer” (Sec. 3, p. 13). The State Treasurer was to “be accountable for the moneys so paid into the Treasury” (Sec. 4). Dividends and interest upon stock belonging to the Fund and interest on moneys loaned were to be “paid into the Treasury” (Sec. 5). Sheriffs collecting executions were “to pay the same into the Treasury” (Sec. 6). “Money belonging to the Literary Fund” could “be paid out of the treasury” only on a “warrant from the auditor drawn in pursuance of an order of the president and directors” (Sec. 7). An accountant was provided for who was required,

“to keep distinct accounts of all the stock and other property belonging to the Literary Fund and distinct accounts of all monies authorized to be paid into the Treasury and to be drawn therefrom on account of said Fund.”

And he was to be furnished by the auditor with

“statements of all warrants for the payment of money into the Treasury for the benefit of the Literary Fund” (Sec. 11, p. 14).

“An Act to amend the several Acts concerning the Literary Fund” passed February 25, 1829, Acts of Va. 1828-9, page 13, provided for a detailed plan for the supervision of the Fund, and Section 13, vested in the second auditor, “The Superintendent of the Literary Fund, all the power heretofore vested in the president and directors of the Literary Fund,” with certain exceptions not material, and created a board with certain supervising powers “to perpetuate the corporation heretofore established.”

Referring to this corporation the Code of 1860, page 414, provides:

“The Governor, Treasurer, two auditors and register of the land office shall be a corporation under the style of ‘The Board of the Literary Fund’ ”

and be vested with all the rights and powers heretofore vested in the President and Directors of the Literary Fund (Chap. 78, sec. 1). There is no provision in the Code vesting this “corporation” with any title to the funds or property of the Literary Fund. “Any money which ought to be paid into the Public Treasury to the credit of the Literary Fund” is to be recovered not by the Board but by the second auditor of the Treasury (do. Chap. 78, sec. 7—Chap. 72, sec. 1). The Board is authorized to

“invest all the unappropriated capital and income of the Literary Fund in certificates of debt of the United States or certificates of debt of or guaranteed by this State or in stocks of banks incorporated by it” (do. sec. 8, p. 414).

It is provided that

“All money belonging to the Literary Fund shall be received into and paid out of the *Public Treasury* upon the warrant of the second auditor.”

The only control that the Board has over this fund is by virtue of a provision that,

“no warrant for paying out such money shall be issued without the special authority of the Board” (do., sec. 13, p. 415).

The second auditor adjusts, settles and balances all accounts of persons “having accounts with the Literary Fund” (do. Sec. 14, p. 415). The board does not have the right to the possession of “securities for money belonging to the Literary Fund,” as all such securities are to be deposited “with the second auditor for safe keeping” (do. sec. 15, p. 415).

“Money, stocks or other property” are all referred to as belonging “to the Literary Fund” undoubtedly for convenience and identification. (Code Va. 1860, Chap. 79, sec. 1, p. 416.) As the money belonging to this Fund is in the Treasury of the Commonwealth as a part of its common assets kept in “a separate and distinct account,” “the money, stocks or other property” would seem for the same reason to be the property of the State in the “Literary Fund.”

The Courts of Virginia in a recent case have authoritatively construed legislation of a similar character relating to the Eastern State Hospital, which in its character is more indicative of constituting the Board in question a separate legal entity or a corporation independent of the State than is the legislation relating to the Sinking Fund or the Literary Fund.

By an Act passed March 6, 1841 (Acts of Va. 1840-1841, Chap. 15, page 38), the

“present Directors of the Hospital in the City of Williamsburg”

were constituted

“a body politic and corporate to have perpetual succession by the name of the ‘Directors of the Eastern Asylum for the maintenance and cure of insane persons,’ and by that name may sue and be sued and may and shall have and use a common seal and are enabled to take and hold any estate real or personal given or to be given to the said Asylum or to themselves for the use thereof” (do. sec. 1).

By the Code of Virginia, 1860, Chap. 85, sec. 2, page 435, it is provided that

“The directors for the Asylums at Williamsburg and Staunton shall respectively continue to be corporations,”

the first being known as the “Eastern Lunatic Asylum.”

The name of the hospital at Williamsburg was changed to the “Eastern State Hospital” and it was provided that its directors should continue to be a corporation (Va. Code, annotated, Sec. 1661). Neither of the Codes appear to have changed the powers vested in the corporation. The directors of this hospital are provided for by the Constitution (Art. XI, Sec. 149-150, p. 248). The Board has the “management of the Hospital for which it is appointed” (sec. 1662). Its funds are to be deposited in a “solvent bank” designated by the Board and Commissioners (sec. 1665). Unlike the Sinking and Literary Funds its funds are not to be deposited in the State Treasury. They are “disbursed by checks drawn by the Superintendent of the Hospital and approved and countersigned by the Chairman of said special board” (sec. 1666). This separates the fund of the Hospital from the general fund of the State and the Treasury of the State. The directors have power to release claims for the “removal, maintenance or care of an insane person” (sec. 1708). In addition to the general corporate right to sue originally granted to the board, it has the right to sue “in the name of the hospital or of the Commonwealth” (sec. 1709).

While in this Code the State Treasurer is required to keep separate accounts of the money belonging to the Literary Fund, Interest on the Public Debt and the Sinking Fund, and the Miller Fund, the Hospital Fund is not recognized as being in his hands and he is not required to keep any account thereof (sec. 781).

Eastern State Hospital v. Graves, 105 Va. 151, was a suit brought by the hospital to recover sums due for board and medical services and the question was whether the Statute of Limitations could be pleaded in the suit, it being contended on the part of the plaintiff that the hospital was in effect the State and the Statute of Limitations did not run against the State, and therefore it could not be pleaded; and in holding that the Statute of Limitations could not be pleaded, the Court said that the

“hospital was created and exists for purely Governmental purposes—is a public corporation, governed and controlled by the State and acts exclusively as an agency of the State * * * that it has no stockholders, no members even except directors

having no interest in it or its affairs, who are appointed by the Governor and with the consent of the Senate and are in fact public, rather than corporate officials endued with corporate being for a more convenient administration of the duties imposed upon them by law * * * if not collected the loss falls wholly upon the State, and if there is a recovery it will be for the benefit of the State and the State alone—not for the benefit of the directors nor for the benefit of any subordinate division of the State but for the whole people—the State at large” (p. 153).

The same doctrine in substance had been previously announced in *Maia v. Eastern State Hospital*, 97 Va. 507. The case of *Eastern State Hospital v. Graves*, expressly overrules the case of *McClanahan v. Western Lunatic Asylum*, 88 Va., 466, which holds that a plea of the Statute of Limitations was good on the ground that the Asylum

“is a corporation—an authorized legal entity—a personality in law with power to sue and be sued” (p. 468).

The McClanahan case seemed to turn almost wholly upon the fact that the Asylum had the power to sue and be sued. It is not only expressly overruled on that point by *Eastern State Hospital v. Graves*, but inasmuch as neither the Commissioners of the “Sinking Fund” or the “Literary Fund” have the power to sue and be sued, it would not be in point as to those funds in establishing that the respective boards were organized legal entities and personalities in law as distinguished from mere public agencies. This construction given to the state statute by the Supreme Court of Virginia having now become the well settled law of Virginia, will be held to be the authoritative construction of that statute by the Federal Court as no Federal question is involved.

Soper v. Lawrence Bros., 201 U. S., 359-370.

N. Y. Cent. R. R. Co. v. Miller, 202 U. S., 584-595.

On the authority of that case and by reason of the fact that they have neither stockholders or assets or control over assets and its officers are public, rather than corporate officials, invested with corporate capacity for convenient administration, and the funds are kept in the State Treasury subject to the control of its Treasurer,

he being responsible therefor, in separate and distinct accounts for the purpose of convenience in maintaining the identity of and keeping the accounts of its Treasurer with each, I find that these funds are the property of the State.

Bonds purchased by and for either of these funds were bonds purchased by and for and on account of and with the funds of and became the property of the Commonwealth of Virginia, kept for convenience in the accounts to which they respectively belonged.

The remaining question is what was the legal effect upon the "public debt" of Virginia of the purchase of its bonds for each of these funds by the Commonwealth itself.

The plaintiff contends that they have remained after such purchase in the respective funds a part of the "public debt" of the State.

My attention has been called to the case of *State ex rel. Heller v. Young*, 18 Wash., 21 as sustaining the contention of the plaintiff. In that case the Court held that under an Act authorizing the State Treasurer "to invest all money now in his hands * * * belonging to the Tide Land Fund * * * in the general fund warrants of the state" (p. 23) that the authority conferred was "to purchase and not to pay" (p. 25) the general fund warrants. In the majority opinion the case turned upon the question as to whether the act contemplated "the payment and extinguishment of the warrants" or only authorized "the purchase for the benefit of the tide land fund of such warrants" (p. 24). Three of the Court held that the act contemplated a purchase and that the State could not compel the holder of a warrant to sell it to the State, the case seeming to turn largely upon the question of the power to compel the holder of a warrant to sell it to the State. While inferentially the reasoning indicates the continued existence of the warrant as a part of the debt of the State, its character in that respect is not discussed in the opinion. Two of the Court dissent and Chief Justice Scott in his dissenting opinion says:

"It is immaterial whether the transaction contemplated an investment, a payment or a purchase. By it the State would become the holder of its own paper to a considerable amount. The original holder would be paid for it would undoubtedly be a payment to him. It might still be an investment upon the part of the State for the benefit of a particular fund. This could make no difference with the prior holder. The warrants

would be *in effect discharged*, for they could not be reissued without express legislative authority reviving them and directing it. The State might preserve them as *evidence of the amounts* due a particular fund, which it might at some time desire to replace. * * * The word 'invest' was probably used through a desire to preserve the particular fund as a distinctive one, but these questions are not in this case and do not concern the relator in any way" (p. 32).

thus indicating clearly that the legal effect of the transaction as to whether it did or did not affect the character of the warrant as a continuing indebtedness was not involved in the case, and also clearly indicating that in the opinion of the Chief Justice the purchase of a warrant under such circumstances extinguished it as an indebtedness of the State.

The case of *State ex rel. Stull Bros v. Bartley*, 41 Nebr., 277, is cited by the majority in *State v. Young*. In that case the Court held that the Constitution had created a trust fund known as the Permanent School Fund, and that an Act providing for the payment of a warrant drawn on the general fund by the Treasurer and also that the Treasurer "shall hold said warrant as an investment of said permanent school fund" was void, as "said Act provides in substance for a transfer to the general fund of the permanent school fund" (p. 283). In the opinion the Court said:

"We shall not argue to prove that an Act which provides for the defraying of current expenses of the State, and the enforced payment of outstanding general fund warrants from the permanent school fund is a transfer of that fund. The fact that such a transaction is by the legislature denominated an investment is wholly immaterial" (p. 284).

In defining "investment" they said:

"It implies the contractual relation of purchaser and seller or borrower and lender, and in that sense it is employed in the Constitution" (p. 284),

undoubtedly having in mind the relation between the State and the holder of the warrant proposed to be credited by the Act rather than the specific relation of the State itself to its own warrant thus purchased, as they immediately proceed to say:

“It follows that the State in its relation as Trustee can no more require the holder of State warrants to part with them than it can enforce the sale by a citizen of any other species of property” (p. 284).

While the case is not put upon that ground, it seems to involve the necessary conclusion that the warrants as “State securities” ceased to exist after such payment and although denominated an “investment,” by the Act they were not after such purchase a debt or liability of the State, as if they were the “permanent school fund” would still have existed untransferred but invested in the warrants.

In *In re State Warrants*, 25 Nebr., 659, the Court held that “State warrants drawing interest” were “State securities” within the meaning of the Constitutional provision, authorizing the investment of the school funds in “United States or State Securities” but did not discuss the question as to what the effect of such a purchase would be upon such warrants as a continuing indebtedness of the State.

In *State v. Stuefer*, 66 Nebr., 381, the opinion of the Commissioner, who was appointed by the Court, seems to treat the proceeding contemplated by the Statute being construed by the Court in *In re State Warrants* (*supra*), as a guarantee by the State of the integrity and security of the “permanent school fund,” and did not discuss the question as to the effect upon a State security, as a continuing indebtedness after its purchase by the State.

These cases, while in some respects analogous, are not in point upon the contention of the plaintiff.

In *Commissioners v. Walker*, 7 Miss. (6. How), 143, upon the ground that “There was a legal conveyance of the Sinking Fund to persons capable of holding it for the use and benefit of the State in the extinguishment of a certain debt” (p. 187); the Court held that the Commissioners were Trustees of the Sinking Fund; and as such could maintain the suit to recover money loaned by them from the Sinking Fund “for the use of the party beneficially interested” (p. 188); and did not discuss the question involved here.

The case of *Elser v. City of Fort Worth*, 27 S. W., 739, is closely in point for the plaintiff. In that case the Court said:

“The next contention of appellant is that if the City can invest these funds otherwise than in paying off and cancelling the bonds themselves it cannot invest them in the purchase of its own outstanding bonds of another series because a purchase

by a debtor of a debt against himself *ipso facto* works a cancellation thereof. It must be conceded that this is a correct statement of the law in its application to ordinary cases in which the purchase is made by the debtor in the same capacity in which he owes the debt; * * *

But, be this as it may, it will hardly be contended that if the purchase be made in a different capacity than that in which the debt is owed (for instance, if A as Trustee should with a trust fund purchase a debt which he owes as an individual), the rule would apply; and we are of opinion that as to those funds set apart for special purposes both by the law and the ordinances passed by the City Council as in this case, the City must be regarded as a Trustee purchasing with the trust fund a debt which it owes as an individual and that the debt so purchased is not canceled but is kept alive for all purposes and becomes the property of the *cestui que trust*—the special fund—just as the house and lot taken from a defaulting collector was said by our Supreme Court in the case of *City of Sherman v. Williams*, 84 Tex., 421, 19 S. W. 606, to become the property of such a fund. We think this view receives striking illustration in numerous provisions of our constitution and laws authorizing the investment of special funds such as the university and public school funds held by the State in its own bonds and by the different counties in their own obligations. We believe it has never been contended that a purchase of this kind cancelled the bonds thus acquired” (p. 740).

The Court distinguishes 102 N. Y., 313, and 102 N. Y., 410, upon the ground that they turn upon statutes “quite dissimilar to the provisions contained in the Charter of this City.” The Charter provided:

“The City Council shall have power to invest the sinking fund * * * in bonds of the City of Fort Worth” (p. 741).

An examination of the essential and substantial features of the legislation construed in the New York cases will, I think, show their substantial identity with this provision in the Charter of the City of Fort Worth. The opinion of the Court seems to be mainly predicated upon the analogy of the collector’s house and proceeds upon an apparent misconception of the legal situation. The house had

physical existence and could be impressed with a trust in connection with the fund without any reference to its ownership or any contractual relations to or interests therein. There is no parallel between such a piece of physical property and the bonds in question. A bond is merely the evidence of an indebtedness and entitles the holder to recover of the maker the amount evidenced by its terms. Independent of establishing the right of such recovery the bond has no value. To assume that it is in all respects parallel to a piece of physical property for the purpose of demonstrating that it still has valid existence as an evidence of indebtedness after its purchase by the maker, is to beg the question and assume its continued existence as a debt. The bond is a promise to pay and the real question is whether the obligation which the City assumed to pay, the sum stipulated in the bond, to the payee, still remains an obligation when the City makes the purchase itself and becomes by virtue thereof the other party to the contract. On the theory of a trust relied on by the Court the debt may well have been extinguished, as a debt, and the proceeds in the hands of the City be impressed with a trust in favor of the fund in which the debt had merged.

This was a decision of an intermediate Court. It does not appear to have gone to the Supreme Court, and I do not find that it has ever been cited with approval.

There are a number of authorities which clearly sustain the contention of the defendants, some of which are directly in point.

In *Young v. Hughes*, 20 Miss. (12 S. & M.), 93, the State subscribed for stock in the Planter's Bank and paid for the subscription in bonds and provided that the surplus of the dividends on the stock after the payment of the interest of the bonds was to "constitute a Sinking Fund * * * for the redemption of the said bonds" (p. 96) and a State Commissioner was afterwards provided for with power to "manage, collect and receive the Sinking Fund" (p. 98) and authorized to coerce by suit or otherwise payments of all debts due that fund. The fund was held to be the property of the State.

In *Miss. v. Dickinson*, 20 Miss. (12 S. & M.), 579, the State Treasurer was required to set off the indebtedness of the State to the defendant against the amount the defendant owed the Sinking Fund, notwithstanding the fact that the Sinking Fund was in a sense a trust fund because "an indebtedness to the sinking fund is therefore, an indebtedness to the State of Mississippi, the latter being the sole owner of that fund" (p. 583).

In *Comr. of Baltimore Co. vs. Board of Managers of the Maryland Hospital for the Insane*, 62 Md. 127, the Board of Managers of the Hospital held the title by deed of "all the real estate and other property belonging to said trust" (p. 130). They were "a body politic and corporate" might "sue and be sued" (p. 131). They had no "power to mortgage or pledge any of the property real or personal of said hospital" (p. 130). The hospital was "declared to have been built and established on its said site by the authority and direction of this State" and the hospital was "to be a public agency of this State for the administration of one of the charities thereof" (p. 131). The Court held that the hospital was the property of the State and not subject to an assessment for the construction of a public roadway and that the "corporate form was adopted by the State only more conveniently and efficiently to administer the affairs of the Institution" (p. 132).

In *New England Life Ins. Co. v. Phillips*, 141 Mass., 535, the Court was deciding the effect of a purchase by trustees of a Sinking Fund, of railroad bonds, which the fund was created to buy, and under the provisions of the Statute they held that it was the duty of the Trustees to cancel the certificates of the road's indebtedness when purchased by them with the Sinking Fund. They said,

"Now if it were a plain misuse of the term to say 'invested' when preservation for the purpose of collecting income is not intended, there would be some force in the argument. But the word 'invest' has no such absolute and universal meaning. It is not uncommon to hear it said that the best investment of money is in the payment of one's debts" (p. 540).

"but as has already been seen the word 'invest' does not necessarily imply a permanent keeping for income (p. 543).

* * * But in the view which we take of the proper construction of the Statute it might reasonably be anticipated that the Trustees though having the liberty to invest in other securities would give the preference to the certificates of indebtedness if these could be obtained at a fair price as compared with the other authorized securities for the purpose of reducing the debt as fast as possible" (p. 544).

While the point is not emphasized, this last remark of the Court indicates that it understood the purchase of securities under such circumstances to result in a reduction of the debt.

In *Brooke et al v. Phila.*, 162 Pa. St., 123, 24, L. R. A., 781, in considering the debt limit fixed by the Constitution and the relation thereto of the bonds of the city held in its Sinking Fund, the Court said:

“When used in the purchase of the debt, there is a release of the pledge and a discharge of the obligation to the amount of the purchase.

It is not important in determining the actual debt that the Commissioners have not authority immediately on purchase to cancel or destroy the city certificate; it is paid for by the money of the obligor; put into the fund for that very purpose; *as an outstanding unpaid obligation, it can as to the obligor have no real effective existence after it is purchased and paid for with the city's money*” (p. 131). * * * It “ceases to be longer a part of the actual debt of the city. That much of the debt the City is no longer bound to pay because practically it is paid. We are speaking now of the actual obligation of the city as affected by these certificates in the fund but not yet canceled” (p. 131) * * * “The City owes now just what it is bound to pay; not one cent more. If it has through the Sinking Fund purchased its own certificates, placed them uncanceled in the fund and *even pays interest on them annually it can not pay them again*. The payment of annual interest is only a method or device for the annual appropriation to the fund” (p. 132).

The Sinking Fund Act provided for the “extinguishment of the bonds and funded debt” and that “said bonds when purchased shall be conspicuously stamped to show that they were purchased for the Sinking Fund of said City and the *interest on said bonds* shall be collected and used in like manner with the taxes collected for said Sinking Fund” (Laws Pa., 1874, page 234, Chap. 452, sec. 11), clearly treating the bonds as an existing investment with interest accruing thereon. This case is followed on this point in *Bruce et al. v. Pittsburg et al.*, 166 Pa. St., 152, and in *Houston v. Lancaster*, 191 Pa. St. 143.

In *Kelly v. Minneapolis*, 63 Minn., 125, the Court said:

“This Board [Sinking Fund Commissioners] with the con-

sent of the council may invest the fund in the bonds of the city or in certain other designated bonds. If it is *invested in the bonds of the city* they are not to be *canceled* but the *interest thereon is to be collected* and added to the fund; and when the principal of any city bonds becomes due, such of the bonds in the Sinking Fund as may be necessary are to be sold with the consent of the council and the matured bonds paid" (p. 134).

"It appears from the record in this case that all of the bonds held by the Sinking Fund are the bonds of the City, hence the amount of the bonds and the money in the fund necessarily represent an equal amount of the outstanding and uncanceled bonds and indebtedness of the city which has already been realized from taxation to pay the bonds, and to ascertain the further amount to be raised by taxation in order to extinguish the entire indebtedness of the city it necessarily follows that the amount of the Sinking Fund is to be deducted from the entire amount of the apparent indebtedness of the City. *The balance is its actual debt.* The debt limit of the statute has reference to an actual indebtedness for the payment of which a tax must be levied, not to an *uncancelled apparent liability*" (p. 135).

In *Stone v. Chicago*, 207 Ill., 492, it was held that the sum reported as due the Sinking Fund was

"not a debt of the city but the amount in the hands of the City Treasurer belonging to the Sinking Fund should be deducted from the amount of the city's bonded indebtedness * * *" (p. 510).

Citing with approval *Kelly v. Minneapolis (supra)*. It does not appear from this case whether or not the Sinking Fund was invested in whole or in part in the City bonds.

In *Savings Bank v. Grace*, 102 N. Y., 313, the Court said:

"Re-purchase of notes or other evidences of debt by the issuer from the holder is redemption, and is equivalent to and has the force of payment" (p. 319).

Under the law being construed the Commissioners of the Sinking Fund were required to

“ ‘invest the moneys which shall constitute the Sinking Fund for the redemption of the city debt * * * in the purchase of stocks created by the corporation of the City of New York’ ” (p. 321).

The stock was not to be cancelled by them until the final redemption of the stock and all interest accruing thereon was to be regularly carried to the said Sinking Fund for the redemption of the debt, and provision was made for its sale. The Court said:

“From the time of its inception then to its final redemption it is the subject of sale; at all times the basis of interest, and, in the hands of all owners save the Commissioners, a part of the apparent indebtedness of the city.” (p. 323).

Commenting upon a Statute authorizing the Commissioners to cancel the stock they said:

“Its actual cancellation deprived it of no efficacy, for by redemption it was already for all practical purposes extinguished” (p. 324).

“But the object of every Sinking Fund is to diminish the debt whose existence warranted its foundation” (p. 325).

In holding that stock thus invested in was not a debt, they said:

“It satisfies also the intent of the Constitutional prohibition. That is aimed at an actual, not a theoretical indebtedness—at a substantial liability which can be discharged only by the enforcement of a tax or an assessment which when levied will be a charge upon the tax payer and a burden for him to remove—not a formal obligation which may remain as evidence of a *once existing debt*, but which can in no way be regarded as a *present debt to be enforced*, and which, if not before cancelled in the discretion of the Commissioners, becomes waste paper by the mere efflux of time” (pp. 325, 326).

“It is *by force of the ordinance* that interest is to be credited, *not by reason of the contract* or the terms upon which the stock was issued. Nor could that interest or other money be applied in payment of the stock held by the commissioners. That was

paid by the purchase, yet if the argument of the respondent should prevail, it must be paid again before its extinguishment" (p. 326).

In applying similar principles to a railroad bond, the Court in *Wilds v. St. Louis, A. & T. H. R. R. Co.*, 102 N. Y., 410, held that conceding the bonds themselves immediately upon their purchase ceased to constitute any part of the corporate debt and were practically extinguished, and "that the provision for interest payments was only a mode for measuring and determining the amount of prescribed contributions to the Sinking Fund; those contributions at least are directed to be made so long as interest accrues upon the bonds treated as valid obligations" (p. 413).

The case of *Savings Bank v. Grace* (*supra*) was expressly approved in the recent and thoroughly considered case of *Levy v. McClellan*, 196 N. Y., 178, where the Court of Appeals of New York, said:

"City stocks or bonds so held are not debts which it can be called upon to pay within the meaning of the Constitutional prohibition. * * * 'The object of every sinking fund, it was said, is to diminish the debt whose existence warrants its foundation,' and the amount 'required to pay off the city debt if it all came presently to maturity' would be a sum 'equal to its bonds or stock not including that held by the Sinking Fund.' " (p. 197).

The amount of the "public debt" is to be ascertained for the purpose of determining the proportion to be paid by West Virginia. The Sinking Fund by which the bonds in that fund were purchased came from the current revenues raised by taxation in Virginia, while West Virginia was a part thereof, and to those current revenues she contributed her proportion. If the bonds thus purchased by the Fund to which she contributed are to be treated as a part of the existing debt, she will be required to contribute again her proportion in payment thereof and will therefore in effect pay that proportion twice. The bonds in the Literary Fund were purchased by assets that were the common property of the whole State in which West Virginia owned her proportion. The common assets having been used for the purchase of the bonds now in the Fund, if the bonds are still treated as a part of the public debt and in the

final adjustment made a charge upon West Virginia, West Virginia will be compelled to pay her proportion of the bonds and lose entirely the benefit of her share of the assets thus used in making the investment therein.

Inasmuch as both the Sinking Fund and the Literary Fund under the provisions of the Statute regulating their conduct and management are very clearly the property of the State and only kept in separate and distinct accounts for the convenience of the State, it is difficult to see how a purchase by the State for either of these funds of its own obligation, does not extinguish the bond as a debt of the State. The State can hardly be debtor and creditor at the same time.

I am satisfied that the great weight of reason and authority is against the contention of the plaintiff, and I therefore find that the Sinking Fund with interest and the Literary Fund with interest, within the meaning of the decree, were not a part of the "public debt" of the Commonwealth of Virginia on the first day of January, 1861, and that the amount of the public debt was the sum of Thirty-two million, nine hundred and nineteen thousand, eight hundred and sixty-three 93/100 dollars (\$32,919,863.93) plus the unpaid and accrued interest thereon amounting to Nine hundred and seventy-seven thousand two hundred and nine 89/100 dollars (\$977,209.89) in all \$33,897,073.82.

I state as a "special circumstance" that I consider of importance that on the first day of January, 1861, there was held by the Commonwealth of Virginia in its Sinking Fund, bonds of the Commonwealth of Virginia that had been purchased by its funds and were its property in the amount of One million, three hundred and twenty-nine thousand five hundred and fifty-seven 20/100 dollars (\$1,329,557.20), and that the unpaid and accrued interest thereon up to December 31, 1860 was Thirty-nine thousand six hundred and eighty-six 72/100 dollars (\$39,686.72), aggregating one million three hundred and sixty-nine thousand two hundred and forty-three and 92/100 dollars (\$1,369,243.92), and that the Commonwealth of Virginia held in its Literary Fund bonds of the Commonwealth of Virginia that had been purchased by its funds and were its property, one million eighty-five thousand and sixty-seven 33/100 dollars (\$1,085,067.33) with unpaid and accrued interest thereon up to December 31, 1860 of Thirty-one thousand seven hundred and seventy-six 2/100 dollars (\$31,776.02) total One mil-

lion, one hundred and sixteen thousand eight hundred and forty-three 35/100 dollars (\$1,116,843.35).

I further state that the Commonwealth of Virginia was liable under a guaranty made in 1847 upon the bonds of the Chesapeake & Ohio Canal Co. for the "punctual payment of the interest and ultimate redemption of the principal sum of money appearing due" in the sum of Three hundred thousand dollars. That of this sum, bonds aggregating Thirteen thousand dollars (\$13,000) were redeemed by the Commonwealth of Virginia April 11, 1903, in her settlement with the United States for Virginia bonds held by the Secretary of the Interior for the benefit of certain Indian tribes and that the State now holds the same as a claim against the Chesapeake & Ohio Canal Company. The sum of Thirteen thousand dollars (\$13,000) does not enter in any way into the aggregate of the indebtedness as above stated (Rec., p. 289).

The schedules hereto annexed and marked Paragraph 1, Ex. 1, Paragraph 1, Ex. 2 and Paragraph 1, Ex. 3, show by what authority of law, and for what purposes the same was created, and the dates and nature of the bonds being the evidence of said indebtedness.

SUMMARY.

Amount of the Public Debt of the Commonwealth of Virginia January 1, 1861, \$33,897,073.82. State as a Special Circumstance:

Amount of bonds of Commonwealth held by Sinking Fund, \$1,369,243.92.

Amount of bonds of Commonwealth held by Literary Fund \$1,116,843.35.

Amount of Bonds Chesapeake & Ohio Canal Co. guaranteed by Virginia in 1847 \$300,000.

NOTE.--The word "REGULAR" in Maturity Column below means that the bonds are irredeemable for twenty (20) years, and then at the pleasure of the General Assembly.

NOTE.—The amount of \$350,000.00 was not evidenced by any form of certificate of debt prior to January 1st, 1861, but is the principal amount required to produce annually at 6% interest, the sum of \$21,000.00 guaranteed forever to the stockholders of the James River Company, by the Act of March 23rd, 1860.
It was later actually funded on this basis under the Acts of 1871 and 1872 known as the "Consol" and "Peeler" Acts.

For What Purpose Created.	By Authority of Acts of	Number of Loan.	Maturity.	Total.		Held by the Sinking Fund. Not admitted by Defendant as forming any part of Public Debt.		Held by the Board of Public Works. Not admitted by Defendant as forming any part of Public Debt.	Held by the Literary Fund. Not admitted by Defendant as forming any part of Public Debt.		Held by Individuals, Firms, Corporations, and others.	
				5%	6%	5%	6%	6%	5%	6%	5%	6%
Alleghany & Huntersville Road	March 13, 1849	82	Regular.		\$ 5,000.00					\$ 2,300.00		\$ 2,700.00
Alexandria Canal Co.	1, 1847	41	"		234,200.00		1,800.00					232,400.00
Berryville Turnpike Co.	March 30, 1839											
	April 8, 1839	39	"		8,000.00					8,000.00		
	February 4, 1847											
Berryville & Charlestown Turnpike Co	April 8, 1839											
	March 12, 1849	76	"		6,400.00							6,400.00
Beverly & Fairmont Road	April 8, 1839											
	January 14, 1848	47	"		16,600.00							16,600.00
Blue Ridge Railroad Co	March 5, 1849	79	"		32,300.00							32,200.00
City Point Railroad Co.	April 6, 1839	24	"		50,000.00					400.00		49,600.00
	January 23, 1835											
Charleston & Point Pleasant Turnpike Co	March 7, 1838	17	"		20,800.00							20,800.00
	January 25, 1839											
do	April 8, 1839											
	March 15, 1849	62	"		5,800.00							5,800.00
Cacapon & North Branch Turnpike Co	April 3, 1838	29	"		11,000.00							11,000.00
	April 8, 1839											
	March 21, 1837											
Cumberland Gap Road	April 2, 1839	8	"		67,600.00		6,000.00					61,600.00
	March 8, 1842											
Clarksburg & Buckhannon Turnpike Co	March 9, 1848	61	"		9,000.00					1,000.00		8,000.00
	March 29, 1848											
Coal River Navigation Co	April 8, 1839											
	March 17, 1849	72	"		4,000.00							4,000.00
Dismal Swamp Canal Co	February 17, 1837	7	"		16,500.00							16,500.00
Dragon Swamp Navigation Co	April 3, 1838											
	April 8, 1839	27	"		1,464.00							1,464.00
Exchange Bank of Virginia & Northwestern Bank of Virginia	March 19, 1839											
	April 8, 1839				447,407.00		7,150.00					440,257.00
Giles, Fayette & Kanawha Turnpike Co	February 1, 1847	42	"		13,400.00					4,400.00		9,000.00
	March 15, 1849											
Goose Creek & Little River Nav. Co.	March 27, 1848	73	"		7,000.00							7,000.00
	March 29, 1848											
	March 2, 1838											
Holliday's Cove Turnpike Co	March 26, 1839	28	"		4,700.00							4,700.00
	April 8, 1839											
Huntersville & Warm Springs Turnpike Co	March 20, 1832	32	"		300.00					300.00		
	April 8, 1839											
	April 8, 1839											
Hardy & Winchester Turnpike Co.	March 8, 1847	50	"		19,300.00					3,800.00		15,500.00
	February 22, 1848											
	March 15, 1848											
Howardsville & Rockfish Turnpike Co	March 9, 1848	59	"		9,000.00					4,000.00		5,000.00
	March 29, 1848											
Hampshire & Morgan Turnpike Co	March 15, 1849	80	"		4,600.00							4,600.00
Lee's Ferry Road	March 30, 1837	31	"		1,358.00							1,358.00
Bank of Virginia	March 18, 1840				99,000.00		400.00			800.00		97,800.00
James River Co	February 24, 1823	2	"		149,083.33					149,083.33		
do	February 16, 1825	4	"	\$ 29,000.00				\$ 29,000.00				
do	March 1, 1826	5	"		170,050.00					170,050.00		
do	January 30, 1829	6	"	37,000.00	13,000.00				37,000.00	13,000.00		
do	February 28, 1829	7	"	4,000.00	3,500.00				4,000.00	3,500.00		
do	December 18, 1829	8	"	8,000.00					8,000.00			
do	March 31, 1831	9	"	15,000.00					15,000.00			
do	February 20, 1833	10	"	4,000.00					4,000.00			
do	March 11, 1834	11	"	10,000.00					10,000.00			
do	March 23, 1860		Perpetual. (See note above.)		350,000.00			\$ 142,000.00		112,500.00		95,500.00
James River & Kanawha Co.	March 21, 1837	11	Regular		1,925,683.59		66,152.00			86,100.00		1,773,431.59
do	March 25, 1842	36	"		250,000.00		766.00			20,200.00		229,034.00
do	March 1, 1847	43	Irredeemable for 25 years, and then at the pleasure of the General Assembly									
					1,216,950.00		11,850.00					1,205,100.00
Carried forward				\$ 107,000.00	\$ 5,172,895.92		\$ 94,118.00	\$ 142,000.00	\$ 107,000.00	\$ 579,433.33		\$ 4,357,344.59

PARAGRAPH II OF DECREE.

2. "THE EXTENT AND ASSESSED VALUATION OF THE TERRITORY OF VIRGINIA AND OF WEST VIRGINIA JUNE 20, 1863, AND THE POPULATION THEREOF, WITH AND WITHOUT SLAVES, SEPARATELY."

"The extent and assessed valuation of the territory of Virginia and of West Virginia June 20, 1863, and the population thereof with and without slaves, separately," is as follows (Rec., p. 347):

1. EXTENT:

Land Area:

Virginia	40,262	Square Miles	=	62.6314%
West Virginia	24,022	do.	=	37.3686%
Total	64,284	do.	=	100%

Total Area:

Virginia	42,627	Square Miles	=	63.8157%
West Virginia	24,170	do.	=	36.1843%
Total	66,797	do.	=	100%

2. ASSESSED VALUATION:

Real Estate:

Virginia	\$296,085,460.31	=	78.2188%
West Virginia	82,449,252.04	=	21.7812%
Total	\$378,534,712.35	=	100%

3. POPULATION:

With Slaves:

Virginia	1,221,319	=	75.4855%
West Virginia	396,633	=	24.5145%
Total	1,617,952	=	100%

Without Slaves:

Virginia	748,171	=	66.4769%
West Virginia	377,289	=	33.5231%
Total	1,125,460	=	100%

ALTERNATIVE FINDING.

At the request of defendants, I make an alternative finding that the population of the counties now forming the State of Virginia,

as shown by the census of the United States for 1860, is as follows:

Without slaves, 747,136=67.5864%

With slaves, 1,219,630=76.4027%

And for the counties now forming the State of West Virginia:

Without slaves, 358,317=32.4136%

With slaves, 376,688=23.5973%

The assessed valuation of the territory of Virginia for 1860
was: \$293,105,895.55

The assessed valuation of the territory of West Virginia for 1860
was: \$83,814,355.61

“Supplemental Ex. 7.”

PARAGHAPH III OF DECREE.

3. "ALL EXPENDITURES MADE BY THE COMMONWEALTH OF VIRGINIA WITHIN THE TERRITORY NOW CONSTITUTING THE STATE OF WEST VIRGINIA SINCE ANY PART OF THE DEBT WAS CONTRACTED."

This paragraph is clearly based upon the Wheeling Ordinance, which so far as material reads as follows:

"The new State shall take upon itself a just proportion of the public debt of the Commonwealth of Virginia prior to the 1st day of January, 1861, to be ascertained by charging to it all State expenditures within the limits thereof and a just proportion of the ordinary expenses of the State Government since any part of said debt was contracted and deducting therefrom the moneys paid into the Treasury of the Commonwealth from the counties included within the said new State during the same period" (Appendix to Rec. p. 122).

The Wheeling Ordinance is not predicated upon the *amount* of the public debt. Upon the assumption that West Virginia would be liable for "a just proportion of the public debt" in case of separation, the Ordinance prescribes an arbitrary method by which that "just proportion" shall be ascertained. It treats the question as an equation involving three factors: first "by charging to it all State expenditures within the limits thereof"; second, "and a just proportion of the ordinary expenses of the State Government since any part of said debt was contracted"; and third, "and deducting therefrom all moneys paid into the Treasury of the Commonwealth from the counties included within the said new State during the same period."

The result of this equation was to be a "just proportion" without any reference to the amount of the debt itself. The assumed liability was the occasion of the arbitrary equation, and whether, standing alone, it would result in a just proportion of the public debt" is so far as the ordinance is concerned entirely immaterial. The ordinance declares that the result thus "ascertained" is "a just proportion." If the ordinance is contractual in its character, it is the agreed method between the States of ascertaining "a just proportion of the public debt." In such case the States would be bound thereby as in case of any other contract.

Next in the order of events comes the Constitution of West Virginia, which upon this point provides:

“8. An equitable proportion of the public debt of the Commonwealth of Virginia prior to the first day of January, in the year one thousand eight hundred and sixty-one, shall be assumed by this State” (App., p. 125).

The Court has held that this section is to be read *in pari materia* with the ordinance. The rules of construction seem to be well settled by the following authorities:

“The rule is familiar and well settled that in case of obscure and doubtful words or phraseology, the intention of the law makers is to be resorted to if discoverable from the context, in order to fix and control their meaning so as to reconcile it if possible with the general policy of the law” (p. 677).

Wilson v. Rousseau, 4. How. U. S., 646.

“It seems all sufficiently plain, and in such case there is a well-settled rule which we must observe. The object of construction applied to a Constitution is to give effect to the intent of its framers and of the people in adopting it. This intent is to be found in the instrument itself, and when the text of a constitutional provision is not ambiguous, the Courts, in giving construction thereto, are not at liberty to search for its meaning beyond the instrument. * * *.

So also where a law is expressed in plain and unambiguous terms whether those terms are general or limited, the legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction” (pp. 670, 671).

Lake Co. Com. v. Rollins, 130 U. S., 662.

“The general rule is perfectly well settled that where a statute is of doubtful meaning and susceptible upon its face of two constructions, the Court may look into prior and contemporaneous acts the reasons which induce the act in question, the mischiefs intended to be remedied, the extraneous circumstances and the purpose intended to be accomplished by it, to determine its proper construction. But where the act is clear

upon its face and when standing alone it is fairly susceptible of but one construction, that construction must be given to it" (p. 419).

Hamilton v. Rathbone, 175 U. S., 414.

"Consequently if a subsequent act on the same subject affords complete demonstration of the legislative sense of its own language, the rule which has been stated requiring that the subsequent should be incorporated into the foregoing act is a direction to Courts in expounding the provisions of the law" (p. 8).

Alexander v. Mayor, 5 Cranch., 1.

"And if it can be gathered from a subsequent statute *in pari materia* what meaning the legislature attached to the words of a former statute they will amount to a legislative declaration of its meaning and will govern the construction of the first statute" (p. 565).

U. S. v. Freeman, 3 How., 556.

"In cases of *doubt or uncertainty* acts *in pari materia* passed either before or after, and whether repealed or still in force may be referred to in order to discern the intent of the legislature in the use of particular terms, or in the enactment of particular provisions" (p. 235).

Vane v. Newcomb, 132 U. S., 220.

The only question that can arise here is as to the application of these rules to the Ordinance and the Constitutional provision read together. I understand a proper application of these rules, at bar, to be that where there is any doubtful uncertain or ambiguous word, phrase or sentence, which is susceptible of two constructions, one of which would operate equitably and one inequitably, that the "equitable" purpose declared by the Constitutional provision requires a construction that would produce the equitable result. Where, on the other hand, the language is clear and unambiguous there is no room for construction, and the clear and obvious meaning is to be adopted. If it is to be held that by reason of the Constitutional provision equitable results should be reached in every instance, notwithstanding the plain provisions of the Ordinance may operate inequitably, the Constitutional provision would in

such case in effect eliminate each or every factor in the equation stated in the Ordinance. This would substitute the Constitutional provision for, rather than read it with, the Ordinance. They are to stand and to be read together, the Constitutional provision being invoked only when it is needed for the purpose of interpreting and making certain what is uncertain and ambiguous.

Bearing upon the equitable construction, it is to be observed that both the Ordinance and the Constitutional provision proceed upon the assumption that by the act of separation, West Virginia became liable for a portion of the "public debt of Virginia," which if liquidated before the separation, would have been borne by the citizens of the whole State upon some equal basis. So far as the liability of the State can be predicated upon the citizens constituting the State as distinguished from the State itself, it can be predicated upon either population, territory or property or upon a combination of two or more or all of them. In either case the same proportional liability would rest upon population, territory or property wherever it might be situated. The unit of liability ascertained, each unit would be liable for its *pro rata* share of the whole debt wherever the unit might be. It would be so liable no matter how the debt might have been incurred or in what section its proceeds might have been expended, or what particular benefit or advantage any particular unit or set of units might have received therefrom. The relation of the units to each other would be joint and indivisible, the debt, a common debt and its proceeds expended from a common fund. Each unit was bound by the action of the lawful majority in incurring the debt and expending the proceeds. Any construction that tends to relieve any of these units from their *pro rata* share of such common liability for the whole public debt would to that extent be inequitable as it must necessarily result in increasing the liability of the remaining units.

The amount claimed under this paragraph by

Virginia is	\$5,639,302.66
(Rec., p. 371, c. 1, p. 1.)	

The amount conceded by West Virginia is.....	\$1,251,288.92
(Rec., p. 371, c. 1, p. 1.)	

The items in controversy are as follows:

Item 2 (Rec., p. 373, c. 1, p. 2)—Covington & Ohio Railroad, \$1,146,460.42.

By an Act passed February 15, 1853, the Board of Public Works were made "a body politic under the name of the Covington and Ohio Railroad Company" (App., p. 33). This Company had no capital stock or stockholders or officers except as the Board of Public Works acted as its officers.

By Section 3 it was provided that

"The Board of Public Works shall commence and continue the construction of said road," etc.

By Section 4, the same Board was

"authorized to borrow on the credit of the Commonwealth * * * the money necessary to construct and equip said road."

March 13, 1856, the same Board were

"authorized and directed to borrow from time to time * * * the sum of Five hundred thousand dollars, to be appropriated to the construction of the Covington and Ohio Railroad" (App., p. 34).

A specific provision was made for the manner in which the money was to be expended. March 20, 1858, they were again authorized to borrow for the same purpose under the same restrictions, Eight hundred thousand dollars. (App., p. 34), and on February 29, 1860, the sum of Two and one-half millions. Under these various Acts, it is conceded that prior to January 1, 1861, the sum above mentioned had been expended within the limits of West Virginia.

I find that the sum thus expended was an expenditure by the Commonwealth of Virginia within the territory now constituting the State of West Virginia prior to January 1, 1861.

ALTERNATIVE FINDING.

At the request of the defendant I find in the alternative that it appears that on February 26, 1866, the Commonwealth of Virginia passed an Act incorporating the "Covington and Ohio Railroad Company" (App., p. 35) and on March 1, 1866, West Virginia (App., p. 37) passed an Act incorporating the same Company. By

these Acts upon the performance of the conditions therein specified, the Company was to

“have all the rights, interests and privileges of whatsoever kind in and to the Covington and Ohio Railroad and appurtenances thereto belonging, now the property”

of either state (Sec. 2, of each Act).

On February 26, 1867 (App., p. 40) additional legislation to enable the completion of the road and authorizing its consolidation with four other railroads was passed by West Virginia. An Act for the same purpose and with substantially the same provisions, with some immaterial variations, was passed by Virginia March 1, 1867 (App., p. 43). The name of the road was changed by both Acts to the Chesapeake & Ohio Railroad Company. By section 14, of the latter Act, the Railroad was given the

“right * * * to purchase the stock held by the State in said company * * * to pay any debt which it may owe the State * * * by surrendering * * * bonds for an amount equal to the debt proposed to be paid, and may also purchase the right of the State in and to the Blue Ridge Railroad by the surrender of State bonds to an amount equal to the value of said road, etc.” (App., p. 45).

Nothing appears in the Record to show whether any such purchase of stock of the State by the Road was made, nor does anything appears to show whether any debt of the Road to the State was paid. It does appear and I find as a fact that the State of Virginia received in 1870 for the Blue Ridge Railroad from said Chesapeake and Ohio R. R. Co., \$625,348.08 (Rec., p. 487).

I find as a fact that the State of Virginia was relieved by the Chesapeake & Ohio Railroad Company of a guarantee of the bonds of the Virginia Central Railroad, amounting to One hundred thousand dollars (Rec., p. 487).

Item 3.—Winchester & Potomac Railroad, \$170,532.00.

This item results from an item of \$270,000 which consists of \$120,000 paid for stock subscribed, and paid for by the State, and \$150,000 loaned by the State to the Railroad Company (Rec., p. 489).

It raises the question as to whether the subscribing and paying for stock in an internal improvement company, whose improvements were located within the limits of West Virginia was "an expenditure made by the Commonwealth of Virginia within the territory now constituting the State of West Virginia," etc.

It is contended upon the part of the plaintiff that the various improvement companies were merely the method or machinery adopted by the State for the purpose of creating internal improvements, and that as declared by its Board of Public Works,

"It was not the original purpose of the legislature in creating the fund for internal improvement that the aid to be extended to joint stock companies should be afforded upon the principle of mere money making" (Rep. Bd. of Public Works, Vol. 6, p. 10).

and

"It must be remembered that these improvements were not fostered by the legislature through contributions in subscriptions and loans merely as investments of so much money in profitable stocks but that they were actuated by a higher consideration, that of promoting the prosperity of the State at large by contracting to build up the local prosperity of its different sections" (Same Vol. 12, p. 8).

and that this being the dominating and controlling purpose these were, within a proper construction of the decree, "expenditures made by the Commonwealth of Virginia," &c., &c.

I have no doubt that the purpose thus declared by the Board of Public Works was the controlling purpose that led the State to engage in these public improvements through the method adopted of organizing joint stock companies and the State becoming a stockholder therein. It is at the same time clear that the element of investment and an expected return therefrom and a belief in the value of the investment was an important element from the beginning. In giving the reasons for adopting this method, the same Board said:

"Private wealth will of itself take the direction which personal interest prompts." * * *

“But it can never be to its [the State] interest, for many reasons, to become the sole proprietor of all the public works within its territory.

Experience testifies that they will be more economically improved and better repaired if the management be left to the individuals who subscribe to their stock, with a view to private gain, than if confined to public officers or agents. The Commonwealth should subscribe to so much of their stock and upon such terms as will suffice to elicit individual wealth for public improvement” * * * (Rep. Bd. Pub. Works Vol. I, p. 48).

For the purpose of inducing subscriptions they suggest,

“By yielding to the individual subscribers the profit of the State on its shares of the stock of any company where required to secure such individuals against temporary loss, a much smaller subscription of the public money will suffice to draw forth private enterprise.”

On page 81, they say, after having discussed the failure of the stock of some of the companies to yield an immediate income, that the foundation had been laid that would

“assure to the Commonwealth a speedy return for such sums as the General Assembly may authorize the Board of Public Works to subscribe out of the funds for internal improvement.”

and referred to the method adopted to

“arouse the enterprise and patriotism of their fellow citizens in general to embark their private fortunes in the career of internal improvement.”

A report of this Board for 1818 shows that returns were expected from the James River project of Thirty-five thousand dollars per year, and the report for 1819 shows that the stock of the Dismal Swamp Company and Roanoke Navigation Company were above par, and the Swift Run Gap Turnpike Company had paid from five to ten per cent dividends for several years. In the report for 1831, referring to the completion of the James River Improvement they say that

“A revenue not only sufficient to pay the interest upon the amount of the expenditure but that a surplus greatly beyond it will be realized.”

It was the expectation of these profits that justified the Act of 1820 (App., p. 50) under which the State practically took over the property of the James River Company and guaranteed its stockholders 12 per cent. dividend for twelve years and 15 per cent. “forever thereafter.”

Substantially all of the Acts, both general and special in their character, authorizing the Board of Public Works to subscribe for stock of the various improvement companies, contemplated the receipt of dividends on the stock of the State and made specific provision for its disposal and use, recognizing the value of the stock.

Under the Act of 1817, Sec. 32 (App., p. 16) a general provision was made giving the state the prior right to purchase the stock of other stockholders and prohibiting its offer to others until it was offered to the State. In order to induce the investment of private capital in the stock of the companies it suspended its right to dividends upon its own stock until the stock of other subscribers had “netted to them six per cent. per annum” (App., p. 6). Under a Statute passed in 1816 private subscription to $\frac{3}{5}$ of the stock was required before the subscriptions were made on behalf of the Commonwealth (App., p. 5). The privilege as to suspending dividends for the benefit of the other stockholders was repealed in 1828 (App., p. 10). While the proportion of stock taken by the Commonwealth was at first $\frac{2}{5}$ of the capital, this proportion was changed in 1848, so that in most, if not all of the instances thereafter, the State was authorized to subscribe $\frac{3}{5}$ of the capital. (See Acts of 1848, Chap. 196, sec. 3, p. 220.)

The Act of April 9, 1838 (Acts of Va., 1838, Chap. 12, Sec. 3, p. 24), provided for the payment of the interest and final redemption of the principal sum borrowed for the payment of stock subscriptions. It also provided that

“the stock of any joint stock company subscribed for or purchased with the money so borrowed, together with the dividends and other net income which may accrue therefrom to the Commonwealth or to the fund for internal improvement,

shall be and the same are hereby appropriated and pledged,"
&c.,

for the payment of such loans, thus holding out the stock of the Commonwealth with its expected dividends as a security of value as an inducement to investors.

The Constitution of Virginia of 1851 recognized these stocks as the property of the Commonwealth by the following provisions:

"The General Assembly may at any time direct the sale of the stocks held by the Commonwealth in internal improvement and other companies, but the proceeds of such sale, if made before the payment of the public debt, shall constitute a part of the Sinking Fund and be applied in like manner."

(Art. IV, Sec. 30, Code of Va., 1860, page 47.)

The Board of Public Works was authorized

"when in their opinion the public interest will be promoted thereby, to transfer and convey the State's interest in any turn-pike or plank road or any part thereof in the County or Counties in which said road may lie."

(Code Va., 1860, Ch. 61, Sec. 52, p. 265) (App., p. 20);

thus clearly treating the stock as the property of the State. That its interest as a stockholder was the interest referred to appears from the next section, which provides for a transfer of the

"interests of the stockholders other than the State."

Section 54 prohibits the transfer of any road that can in their opinion

"be made productive or self-sustaining,"

and the Act shall not take effect

"until the stockholders other than the State shall have transferred their interest to said County,"

evidently contemplating that the State was the owner of certain

stocks at least that were its property and were of value as assets.

By an Act passed by the Pierpont or Restored Government, Feb. 3rd, 1863, a formal transfer of

“all stocks of any other company or corporation the principal office or place of business whereof is located within the said boundaries standing in the name of this State or of the said President or Directors or of the said Board of Public Works or of any person or persons for the use of this State”

purports to have been made to West Virginia (App. 128).

The plaintiff in paragraph 8 of its bill of complaint (Rec., p. 8) referred to and recited this portion of the Act of 1863 and alleged:

“that the property which was by the operation of this Act appropriated and transferred to the State of West Virginia aggregates”

several millions of dollars, and

“that of the bank stocks alone which were transferred under the operation of this Act,”

defendant received

“from the sale thereof about Six hundred thousand dollars.”

The record does not disclose the existence of any stocks other than those in controversy, upon which the Constitutional provision or the Act of 1863 or the allegations of the plaintiff's bill can apparently be predicated.

That the State early appreciated that its legal relation to these various companies was that of a stockholder only, seems clear.

The Act authorizing the subscription to the stock of the Shepherdstown and Smithfield Turnpike Company by the Board of Public Works, passed February 20, 1826 (Acts of Va. 1825-26, p. 66), contains this proviso:

“Provided that the money hereby authorized to be advanced to said company by taking part of the stock thereof shall be applied exclusively to the completion of said road should any

part of it be unfinished when the aforesaid sums of money shall respectively become payable.”

A similar act relating to the Petersburg Railroad Company, passed March 22, 1831 (Acts of Va. 1830-31, p. 205), contains a similar proviso:

“Provided that no part of the stock herein authorized to be subscribed shall be payable until said three-fifths shall have been fully paid and expended by the said company in the construction of the road aforesaid unless at the option of the said Board.”

The General Act of February 11, 1832, contains this provision:

“When the Board of Public Works having made any subscription to the stock of any company shall have good cause to believe * * * that the funds of the company are misapplied or will probably be misapplied, it shall be the duty of the said Board to withhold payment of their subscriptions until proper legal measures can be taken to secure * * * the faithful application of the funds of the company” (App., Sec. 4, p. 18).

The conditions thus imposed by the Commonwealth to enable it to thus indirectly control or dispose of the funds of the corporation is clearly inconsistent with the idea that it had any right to control the assets other than that of an ordinary stockholder, as, if they were within its control, such legislation would have been unnecessary.

The act to amend the Charter of the James River and Kanawha Company, passed March, 1860, clearly recognized the distinction between the rights of the State as a stockholder and a creditor of the Company (App., p. 108).

Code of Virginia, 1860, Chapter 67, Sec. 28, p. 391, authorized the Board of Public Works to purchase

“any work of any internal improvement in which the State is a stockholder, or otherwise interested,”

at a sale

“by virtue of mortgage, judgment or other lien, * * * on the part and for the use of the Commonwealth” (p. 391).

That the state fully recognized these stocks as investments of value and that its rights were those of a stockholder only, seems clear.

The case of *U. S. v. Stanford*, 161 U. S., 412, is relied upon as sustaining the contention of the plaintiff. The only question involved in that case was whether a stockholder of the Central Pacific Railroad Company, the California Company, was personally liable as such stockholder for the bonds of the United States “loaned to railroad companies for the purposes indicated in the Act of 1862” (p. 428). The Statutes of California made such stockholders liable for all of the road’s “debts and liabilities” (p. 414) the Union Pacific Railroad chartered by Congress and enjoying on the same terms with the Central Pacific Railroad Company the benefit of the bonds, not being so liable. It is true that in the opinion, the Court said:

“These ends were to be attained through the agency of a corporation created by Congress and of certain corporations organized under State laws which Congress selected as instruments to be employed in accomplishing the public objects specified in its legislation” (p. 427).

I do not understand that by the use of this language the Court intended to be understood as holding that the relation of principal and agent existed between the United States and the corporations in question, or that their property or assets and the right to control the same was in any way changed or affected by reason of their having been selected as such “agency” or “instrument,” or that by reason of their having been so selected the United States acquired any control of or interest in the assets of such companies. They were agencies and instrumentalities in the same sense that all public service corporations are instrumentalities and agencies of the State, and only in that sense did Congress extend its aid to these particular corporations to accomplish the objects desired. The opinion in effect so states:

“The Supreme end sought to be attained was by means of private capital and Governmental aid to secure the construc-

tion of the whole line, for the benefit primarily of the United States and for the use of all the people" (p 430).

The companies "private capital" was building the road and the Government was simply rendering aid to an "agency" selected by it for that purpose and in that sense only was the road in question the agent of, or instrumentality of, the Government. That the assets of these companies were their own and not the property of the United States was expressly held in the *Sinking Fund cases*, 99 U. S., 700, where the Court said:

"It is a matter of no consequence that the Secretary of the Treasury is made the Sinking Fund agent and the Treasury of the United States the depository or that the investment is to be made in the public funds of the United States. This does not make the deposit a payment of the debt due the United States (p. 725),"

because as the Court said:

"While the money is retained it is only that it may be put into the fund which, although kept in the Treasury, is owned by the Company" (p. 726).

and

"Under the circumstances the retaining of the money in the Treasury as a part of the Sinking Fund is in law a payment to the company" (p. 726).

There is no intimation in the opinion that there was any financial relation existing between the United States and the companies other than that of creditor and debtor or that the money that the companies expended in constructing the road was in any sense, either directly or indirectly, money of the United States or an expenditure by the United States.

I find nothing in the case that justifies the inference that these corporations were agents to apply money put into their hands by the Government to construct the road and were therefore expending the money of the Government therefor.

In *Liverpool Ins. Co. v. Massachusetts*, 10 Wall., 566, the Court

stated the conditions under which joint stock associations will be held to be a corporation within the scope of a Statute which "permits it to exercise its corporate function in that State on the condition of payment of a specific tax," and for the purpose of suits and in some other particulars, such associations have been recognized by the Courts as corporations.

See also

Fargo v. L. N. & Chic. R. R., 6 F. R., 787.

Edgeworth v. Wood, 58 N. J. L., 463.

The following well considered authorities seem to establish clearly the distinction between the State as a stockholder and the corporation as a legal entity.

In *Bank of U. S. v. Planters Bank of Ga.*, 9 Wheat., 904 the State of Georgia was a stockholder in the Planters Bank. The point was raised that the State was a "party defendant." In overruling this contention Mr. Chief Justice Marshall said:

"A suit against the Planters Bank of Georgia is no more a suit against the State of Georgia than against any other individual corporator (p. 906). * * *

The state does not by becoming a corporator identify itself with the corporation. The Planters Bank of Georgia is not the State of Georgia, although the State holds an interest in it.

It is, we think, a sound principle that when a government becomes a partner in any trading company, it divests itself so far as concerns the transactions of that company of its sovereign character and takes that of a private citizen. Instead of communicating to the company its privileges and its prerogatives, it descends to a level with those with whom it associates itself and takes the character which belongs to its associates, and to the business which is to be transacted (p. 907). * * * As a member of a corporation a Government never exercises its sovereignty. It acts merely as a corporator and exercises no other power in the management of the affairs of the corporation than are expressly given by the incorporating act * * * and exercises no power or privilege which is not derived from the Charter" (p. 908).

This case has been frequently approved on this point. (See Rose's Notes.)

In *Bank of Kentucky v. Weister*, 2 Peters, 318, where the State owned the whole of the stock of the Bank, a case much stronger than the case presented at bar, the Court said:

"it was insisted that the suit was virtually against a sovereign state," (p. 322).

In affirming 9 Wheat., 904, and holding against the contention, the Court said:

"But this Court is of the opinion that the question is no longer open here" (p. 322).

In *Briscoe v. Bank of Kentucky*, 11 Pet., 257, the question was whether the notes of the Bank were bills of credit issued by the State. The State was the sole owner of the stock of the Bank and all private interest was expressly excluded. Its officers were chosen by the Legislature. It was contended that the Bank was the "mere agent of the State." In holding the contrary, the Court said, answering the following question in the negative:

"The State of Kentucky is the exclusive stockholder in the Bank of the Commonwealth, but does this fact change the character of the corporation? Does it make the Bank identical with the State? And are the operations of the Bank the operations of the State? Is the Bank the mere instrument of the sovereignty to effectuate its designs and is the State responsible for its acts?" (p. 323).

and again:

"If the Bank of the Commonwealth is not the State nor the agent of the State, if it possesses no more power than is given to it in the act of incorporation and precisely the same as if the stock were owned by private individuals, how can it be contended that the notes of the Bank can be called bills of credit in contradistinction from the notes of other banks?" (p. 326).

See Rose's Notes for approving citations and also *Curren v. Arkansas*, 15 How., 304.

This question seems to have been clearly settled by the Courts of Virginia.

The case of *James River & Kanawha Co. v. Early*, 13 Gratt., 541, was an action to recover for the negligence of the corporation. In discussing the question of the liability of the Company, the Court said:

"It is not a *public corporation* representing the *public* and *administering public funds* for the benefit of *the public*, but it is a joint stock company which has undertaken the construction of a work, useful to the public certainly, but *intended for the private emolument* of the stockholders in dividends of the profits" (p. 552).

"That the State owned a large interest in the stock of the company will not vary the case * * * a mere interest taken by the Commonwealth in the stock would not be sufficient to bring an action against the company for neglect of its corporate duty within the influence of the decision in the case of *Sayre v. The Northwestern Turnpike Road*, 10 Leigh, 454 * * * " (p. 553).

This case is clearly in line with the decisions of the United States Supreme Court upon the relation of the State to a corporation. These corporations were not "*administering public funds* for the benefit of the public."

It seems to me clear that the relation of principal and agent did not exist between the State and these corporations in which it was a stockholder. While in a popular general sense they may be termed the machinery, instrumentality or agency through which the State operated in making the particular disbursement, they were such agency, machinery and instrumentality in the same sense that they were the agency, machinery or instrumentality of the other stockholders, or perhaps, in the added sense in which every public service corporation is the agency, machinery or instrumentality of the State. The State held two-fifths or three-fifths of the stock, but had no more control over the funds of the company, or any more title to the assets of the company, than any other stockholder holding a like amount of the stock. Like other stockholders it was an investor with the same rights and privileges. It may be said that as

a matter of public policy, in a general way, the State was in this manner, indirectly, at least, making an expenditure, and no investment can be made without an expenditure. This case must be determined, however, by well-recognized legal rules. The language of the decree is plain and unambiguous. To hold these subscriptions thus made for investment to be expenditures by the State "within the territory" it would be necessary to read into the decree the words "either directly or indirectly" which I do not feel at liberty to do.

I find therefore that the sums in question in case of the joint stock companies in which the State was a stockholder were expenditures made by the respective companies from their own funds and not by the State. I therefore disallow the sum of \$120,000, subscribed and paid for stock in the Winchester & Potomac Railroad Company by virtue of the Acts of 1832 and 1833 (App., pp. 28 and 29).

By an Act passed February 13, 1838 (App., p. 29), the Board of Public Works were

"directed to loan on behalf of the Commonwealth * * *
to the Winchester & Potomac Railroad Company * * *
upon the condition that the salaries of the officers and servants
of the said company shall not be directly or indirectly in-
creased during the existence of this debt,"

and upon

"a mortgage upon the whole property, real and personal, and
upon the net income of all their tolls and receipts"

the sum of \$150,000. Specific provision as to security was made. Acceptance of the loan gave the Legislature "a right to tax the stock, property and profits" of said Company, and the Company was required to pay off all prior liens so as to make the mortgage of the State a first lien (App., p. 30).

This is clearly a loan with specific and careful provision made to secure its repayment, and was so intended by each party thereto. I therefore disallow the item.

ALTERNATIVE FINDING.

At the request of the plaintiff under this item, I make the alternative finding:

First.—That \$120,000 was subscribed and paid by the Commonwealth for stock in the Winchester and Potomac Railroad under the Act of 1832, and

Second.—That the sum of One hundred and fifty thousand dollars, with specific provision to secure its repayment with interest thereon was loaned by the Commonwealth to said Railroad under the Act of 1838, and that the portion of the road in West Virginia was 63.16%.

As a special circumstance that I consider of importance, I also find that an Act was passed February 24, 1846 (App., p. 30), providing for an annuity of \$5,000 in lieu of interest upon the debt due by said Company to the Commonwealth, and all dividends upon the stock of the Commonwealth in said company. So long as the annuity was paid, “the payment of the principal of said debt shall be so long postponed” (App., Sec. 2, p. 31). If default were made in payment “the whole of said debt and interest due” are to be collected (Sec. 3) and the lien for the whole debt and interest was fully retained (Sec. 4).

February 22, 1866, the Company was authorized “to pay into the Treasury of the Commonwealth” \$83,333.33 (Sec. 1, App., p. 31). Payment could be made in State bonds at their par value, and when made the “claim of the State against said Company shall be lifted and discharged.” Under this Act there was paid into the Treasury of the State in bonds and interest in 1866, \$118,518.12 (Rec., p. 462).

Item 6.—Berryville & Charlestown Turnpike Company, \$11,-932.52.

This sum was paid upon a stock subscription and is therefore disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the

Commonwealth subscribed and paid for stock in said road under Acts of 1849 and 1850 \$20,455.74, and that 58 1/3% of the road was in West Virginia.

Items 10, 11, 12, 13 and 14 all relate to the Kanawha Turnpike and the Kanawha River Improvements.

An Act was passed February 17, 1820, relating to the James River Company (App., p. 50). In its preamble it declared that that company was willing to consent to such modification of its charter as would enable the company

“as an *agent* acting and holding *in trust* for the benefit of this Commonwealth to undertake and carry the said improvements into effect in such manner as the General Assembly shall from time to time direct and require, and under the direction and superintendence of such agent or agents as may from time to time be appointed for that purpose by appropriating to these objects such sums of money as they may borrow,” &c.,

upon the condition that the company would consent to applying its surplus tolls and income

“to the payment of the interest on the money which they may so borrow,”

except so much as might be necessary to pay a dividend on the present stock of the company of twelve per cent. for twelve years and fifteen per cent. forever thereafter. It was stipulated

“that the General Assembly shall provide for making good any deficiency in the payment of the interest on any money so borrowed which may remain to be provided for after applying the surplus tolls and other income of the said company with the exceptions aforesaid to the payment of interest as aforesaid” (App., p. 51).

It was provided that upon its acceptance by the Company, the Act should be

“considered a compact between this Commonwealth and the said company”

and while subject to change and modification, no such change and modification, should be made

“as will take from the James River Company their right to the dividends or any part of the dividends upon their stock allowed to them by this Act” (App., p. 51).

The improvements contemplated were to be “prescribed by the Legislature” and should from time to time be made under the superintendence of the Commissioner or Commissioners, agent or agents as the General Assembly should from time to time appoint. It was provided that the works of the Company

“Shall forever thereafter be esteemed and taken as public highways for the transportation of all goods, commodities and produce whatsoever * * * and the road, canals, locks, dams and other works when perfected with all tolls, and other profits and emoluments arising therefrom shall be and the same are hereby vested in the said company as *agents in trust* for this Commonwealth” (App., p. 53).

and in Section 10 the company was referred to as, after giving their assent,

“holding as an *agent in trust* for the benefit of the Commonwealth.”

Repairs were to be

“contracted for and made by the Company from time to time under the control, direction and superintendence of the Commissioners on the part of the Commonwealth” (App. p. 56).

Commissioners were provided for, and no contracts were to be made by the Company for the improvement of the Kanawha River and Road until the same should be submitted to and approved in writing by the Commissioners, named to superintend the works on such River and Road (do. p. 56). All contracts for making any improvements on the James and Jackson Rivers were to be

“submitted to and approved in writing by the Commissioners” (do. p. 56).

The Treasurer of the State was made *ex officio* the Treasurer of the Company. Money was to be borrowed "as the General Assembly shall hereafter direct" (do. p. 57). Certificates issued for money borrowed were

"to be redeemed only at the pleasure of the General Assembly."

The surplus of such tolls and other incomes after the

"payment of the expenses, dividends and interest as aforesaid shall from time to time be paid into the Treasury of this Commonwealth to the credit of the fund for Internal Improvement, to be disposed of as may from time to time be directed by law" (do. p. 58).

By an Act passed February 24, 1823 (App., p. 64), a much more pronounced change in the character of the legal relation was made. All of the powers and duties of the existing President and Directors were "superseded and annulled." Certain officials of the State were made *ex officio* the President and Directors of the Company and they succeeded to and possessed

"all the rights, powers, duties and privileges of the existing President and Directors" (do., p. 64),

except so far as may be otherwise directed by the provisions of the act. All of the moneys were to be

"kept in the public treasury separate from other public moneys" (do., p. 65).

The funds raised and used were to be paid into and disbursed from the Public Treasury (do., pp. 65, 66 and 67). Commissioners were created with powers to carry into effect the provisions of the Act (do., pp. 67 and 68). They were to appoint such "engineers, managers or agents" as they might think necessary and remove them at their pleasure. Provision was made for carrying out the contracts made by the Company "as if the powers of the said company had continued" (do., p. 69). Its superintendents and officers were to continue until

“superseded by appointments under this Act or their offices annulled by the provisions thereof” (do., p. 69).

These and numerous provisions show that the State by virtue of these two acts had in effect acquired title to all the property of the company. The Acts were so construed in the case of *Higginbotham Exr. v. The Commonwealth*, 25 Grattan, 627, where the Court said, in describing the relation of the State to the Company:

“Here then we have a solemn ‘compact’ between the State and the Company. * * * Such was the solemn obligation assumed by the State as the price of the stockholders’ property” (p. 628),

and referring to the Act of March 16, 1832:

“On that day, however, a new company with greatly extended powers was chartered called the James River and Kanawha Company, to which all the interest of the State in the old James River Company was transferred” (p. 628).

The record does not disclose when, and what for, or how, these items were paid. In order to supply the deficiency of proof in this regard, I have had recourse to the notes of the accountants and report as a part of the case so much of their notes, agreed to by them, as relates to these items as “Supplemental Exhibit I.”

I find by these notes that of Item 10, \$152,130.54, the sum of \$149,491.90 was expended by the State “within the Territory” after March 19, 1823, and before March 16, 1832, on the Kanawha Turnpike Road. There is nothing in the record to show when the actual transfer by the State was made under the provisions of the Act of March 16, 1832. I find that the sum of \$2,638.64 was expended by the Commonwealth after March 16, 1832, but was an actual expenditure, not an investment or a loan, and I therefore allow the whole sum of \$152,130.54 as an expenditure.

I find that Item 11, \$2,593.92 was expended by the Commonwealth “within the territory” upon the Kanawha after December 31, 1834, and that it was an actual expenditure by the State and not an investment or a loan, and I therefore allow it as an expenditure.

I find that Item 12, \$7,189.65 was also expended by the Com-

monwealth "within the territory" upon the Kanawha Turnpike after December 31, 1834, and was an expenditure and not an investment or a loan and I therefore allow the item.

I find that under Item 13, the Commonwealth expended after March 13, 1823, and prior to March 16, 1832, "within the territory" upon the Kanawha Turnpike, \$3,202.53 and that the State expended "within the Territory" upon the same turnpike, the sum of \$77,752.75, after March 16, 1832 (\$49,935 of which was on account of contracts made and services rendered prior to March 16, 1832); that the whole sum was an expenditure by the State and not an investment or a loan and I therefore allow the whole sum.

As to Item 14, I find that the amount of \$59,572.36 was all expended by the Commonwealth within the territory after March 19, 1823, and prior to March 19, 1832, and I therefore allow the same.

ALTERNATIVE FINDING.

As an alternative finding at the request of the defendant I find that the State was to transfer

"her whole interest in the works and property of the present James River Company to the James River and Kanawha Company in payment for its subscription for 10,000 shares of stock" (App. p. 87).

There is nothing in the record to show whether this transfer was actually made. It does not appear whether there was a general meeting of the stockholders upon which the transfer was to be made.

Item 15—Kanawha Board bonds, \$60,000.

I find that this was a loan of \$60,000 in bonds to the James River and Kanawha Company under the provisions of the Act of March 23, 1860, sec. 9 (App. p. 110) which authorized a loan for \$300,000 to the James River and Kanawha Company upon a "deed of trust or mortgage upon the works, property and net revenue to the Commonwealth for the payment of the principal and interest of said \$300,000." It was also provided that such lien

"shall take precedence over any lien created by said company to secure their bonds authorized to be issued by this Act."

Under this Act, \$60,000 was loaned (Rec., p. 490).

There is nothing in the record to show whether it has or not been repaid, although counsel for West Virginia stated at the argument that he did not think it had been repaid.

This was a clear loan with careful provisions made to secure and a reasonable expectation of its repayment, and I therefore disallow it as an expenditure.

ALTERNATIVE FINDING.

I find, as an alternative finding at the request of the plaintiff that the sum of \$60,000 was loaned to the James River and Kanawha Company by virtue of the provisions of the Act of March 23, 1860, sec. 9 (App., p. 110), and that the loan has not been paid.

Item 17, \$7,882.92 was withdrawn by the plaintiff upon the ground that the portion of the road charged for was wholly in the State of Maryland.

Item 25,—Brandonville, Kingwood and Evansville Road—\$10,-595.73.

Item 28, Clarksburg & Buchannan Turnpike, \$19,259.36.

Item 35, Kingwood and West Union Turnpike, \$18,140.61.

are all for macadamizing (Rec., p. 451).

In the case of the Brandonville, Kingwood and Evansville Road, the State although a small stockholder therein, paid out the sum independent of its interest as a stockholder (Rec., p. 480).

By an Act passed March 18, 1853, the Board of Public Works were directed

“to have such parts of the Clarksburg and Buchannon Turnpike Road macadamized or planked as they may think stand in need of such improvement” (App., p. 140).

By an Act passed February 28, 1853, \$28,000 was appropriated for the purpose of macadamizing the Kingwood and West Union Turnpike and the Board of Public Works was authorized

“to pay the said appropriation as is provided by law” (App., p. 143).

These were not investments or loans. They were sums directly expended by the State upon the public improvements owned by these companies to be sure, and while the expenditure no doubt increased the value of the properties the expenditure was in my judgment made by the State, for the sole purpose of promoting the public convenience, and were not intended, so far as anything disclosed in the record shows, as gratuities to the companies involved. I therefore think they come fairly within the scope of an expenditure and allow them as such.

Item 53—Harpers Ferry Raid—\$189,718.59—

I think that “an expenditure within the territory” in question means expenditures that are local in their character; that are localized by the subjects upon, or for, which they are expended, and the benefits which inure from such expenditures are benefits that the territory in question received the benefit of, it remaining therein, as distinguished from the rest of the State outside of that territory, the result of which in case of physical property remained within the territory after the expenditure had been made, not expenditures the benefit of which were common to all of the people of the State irrespective of the localities in which they resided. These expenses do not appear to me to come within the scope of such an expenditure. The only benefit the “territory” derived therefrom was the same benefit that it derived in common with the rest of the State. It was not an expenditure made for the benefit of that particular “territory.” The money was appropriated and paid “for the Defense of the Commonwealth” (App., p. 149) not for any particular part of the Commonwealth. I therefore disallow this item as a direct expenditure.

ALTERNATIVE FINDING.

At the request of the plaintiff I find that the Commonwealth paid on account of the Harpers Ferry Raid that occurred “within the territory” of West Virginia, the sum of \$189,718.50.

Item 54—School Commissioners—\$830,865.37.

This amount is claimed by the plaintiff as an expenditure "within the territory" out of a total of expenditure for like purpose in the whole Commonwealth of \$3,056,239.84 (Rec., p. 538-H).

The Constitution of Virginia directed that

"One equal moiety of the capitation tax upon white persons shall be applied to the purposes of education in primary and free schools" (Con. Va. Art. VI. Sec. 24—Code Va. 1860, p. 46).

February 21, 1818, an annual appropriation of \$45,000 for the education of poor children was made.

This was increased to \$70,000; and in 1851 to \$75,000 and to \$80,000 in 1853-4 (Code Va. 1860, p. 417, note). The sum expended by Virginia for primary schools was a regular, current, annual and permanent charge upon the State by virtue of Constitutional and Statutory provisions. Being thus a permanent requirement of its fundamental law it was an expenditure that the State was bound to make annually and was a part of "ordinary expenses of the Government." It was an expenditure general in its character, not confined to or appropriated to any particular district and as much a general charge as the expense of the Judicial or Executive branches or the Board of Public Works which are treated by both parties as ordinary expenses; I therefore disallow the item as an expenditure.

ALTERNATIVE FINDING.

At the request of the plaintiff I find that the sum paid the School Commissioners "within the territory of West Virginia" was \$830,-865.37

Item 55, Surveys—\$106,416.14.

This Item comes from an aggregate of \$250,206.56. An analysis of this sum shows by a statement agreed to by the accountants, which is reported as a part of the case and marked "Supplemental Ex. 2," that the sum of \$106,983.67 was for expenditures that were general in their character (such as a salary paid by the State to the Chief Engineer \$30,809.73, &c.), and the proportion charged to West Virginia of that sum was reached by a percentage based upon

the sum that was actually charged upon the books in the different sections, so that the general charge would be in proportion thereto. This left \$143,222.89 that was actually charged upon the books of the State and could be traced into each section; the sum that was thus charged and was thus traceable that was expended in the territory of West Virginia was \$60,873.19. While it is a narrow and close question, I think the general charge should be deducted from this item and charged under ordinary expenses as they were regular, ordinary and current expenses of a branch of the State Government and general in their character not allocated to, or apportioned to, any particular territory. It is suggested that many of these surveys were not productive of results, no roads being built. It might also be said that the roads, if built, proving worthless, might have been abandoned. None the less the money would have been expended. No road could be built without the preliminary survey, and if the initial expense, disclosed the unwisdom of proceeding further, it seems to me it was no less an expense properly incurred whether the survey was or not followed by construction and does not affect the fact that the money was expended in that locality for a legitimate purpose. A direct expenditure for the work is treated by both parties as an "expenditure" and for the same reason the survey preliminary to and, if constructed, a necessary part of, the work is also an expenditure. The sum which this branch of the Government actually expended "within the limits of the territory of West Virginia," \$60,873.19 I allow as an "expenditure."

Item 56, Trans-Allegheny Lunatic Asylum, \$27,000.

It was conceded that on January 1, 1861, this sum was in the hands of the Treasurer of the Asylum unexpended. The record, p. 452, should read "and had not been expended." It was to be used in completing its building. (Rec., p. 471) It was on deposit with the Weston Branch of the Exchange Bank of Virginia and was taken therefrom by the so-called Pierpoint or Restored Government. (Wheeling Acts, Extra Session, July 1, 1861) (App., p. 135) On that date \$5,316.98 was "placed at the disposal of the Board of Directors January 14, 1862, the sum of \$21,684 (making with of the Lunatic Asylum," and by an Act passed the previous sum \$.98 more than the \$27,000) was appropriated to the Lunatic Asylum to be expended in

“completing the South wing of said building being the balance of the amount taken from the branch of the Exchange Bank of Virginia at Weston” (App., p. 136).

Under the authority of *Eastern State Hospital v. Graves (supra)*, this money thus in the hands of the Treasurer of the Asylum, prior to its being taken by the Restored Government, was the property of the Commonwealth, and while it was intended to be used in the completion of the buildings, it had not been so used, and had not therefore been expended on January 1, 1861. I therefor disallow this item.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that \$27,000 was in the hands of the Treasurer of the Asylum the property of the Commonwealth on or before January 1st, 1861, for the purpose of being expended in the completion of its buildings and that it was afterwards taken therefrom by the Restored State of Virginia, and returned to the Asylum—\$5,316.98 July 1, 1866, and \$21,684 January 14, 1862.

Items 57 to 65 inclusive.

These are all for sums paid by the Commonwealth on account of stock subscriptions in Bridge Companies, aggregating \$78,412.50, and are disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that \$78,412.50 was actually paid by the Commonwealth on account of its subscriptions to the stock of the various Bridge Companies mentioned in said items, and that all of the bridges were located “within the territory now constituting the State of West Virginia.”

Items 66 to 69 inclusive.

These are all for sums paid by the Commonwealth on account of stock subscriptions in navigation companies aggregating \$210,500, and are disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that \$210,500 was actually paid by the Commonwealth on account of its subscriptions to the stock of the various navigation companies mentioned therein and that the property of all of the companies was located within the territory now constituting the State of West Virginia.

Items 70 to 147 inclusive.

These are all for sums paid by the Commonwealth on account of its stock subscriptions to the various turnpike companies mentioned therein, aggregating \$803,555.83, and are disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that \$803,555.83 was actually paid by the Commonwealth on account of its subscription to the stock of the various turnpike companies mentioned therein.

The property of all of these companies except those mentioned in items 70 to 80 inclusive is "within the territory now constituting West Virginia" and aggregates \$700,103.49. A portion of the property of the companies mentioned in items 70 to 80 inclusive is in part within those limits. Apportioning the total amount paid to the amount within those limits would give the sum of \$103,452.34.

Items 148 and 149, \$391,800.

These are for sums paid by the Commonwealth on account of its stock subscriptions to the banks mentioned therein, and are disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that \$391,800 was actually paid by the Commonwealth on account of its subscription to the stock of the banks therein mentioned, and that they

were located "within the limits of the territory now constituting West Virginia."

Item 150—Loan to the Town of Bath, \$2,500.

March 8, 1847, an Act was passed,

"to provide for the construction of a road from Bath in Morgan County to the mouth of the St. John's run on the Potomac."

The Board of Public Works was authorized

"to pay from time to time out of the fund for Internal improvement a sum or sums of money not exceeding \$2,500 to the Treasurer of the Trustees of the Town of Bath * * * for the purpose of constructing a road from the town of Bath to the mouth of St. John's run on the Potomac."

The Treasurer was to

"pay or deliver such sums as may be required from time to time"

and he was to be liable for any defaults therein "as for other defaults upon his official bond," anticipating the question that might be raised that in the relation thus created the money received by him would not be the town's money and he be liable therefor as its Treasurer (App., p. 155, Sec. 1). The Act provided that the Trustees were to have "the disposition of the money" and to exercise the same powers as the "president and directors of turnpike companies." The Board of Public Works were to prescribe the tolls "such tolls to be applied to the necessary expenses and repairs of the road" (do., Sec. 2). The surplus after the payment of the

"necessary expenses and repairs of the road"

was

"to be applied in payment of the interest on the sum paid on

the part of the Commonwealth for the construction of said road”

and

“Any deficiency of the net surplus of tolls to pay said interest may be paid from the receipts on account of bathing at the medicinal springs belonging to the Commonwealth in said Town of Bath” (do., sec. 2.)

In Section 3, it was provided that no part of the appropriation should be advanced

“until the said Trustees shall have given bond with good security payable to the said Board [not to the Town of Bath] and approved by them for the punctual payment of interest annually on the sum advanced by the Commonwealth for the construction of said Road.”

Except for the provisions of Section 3, it is not perceived how the Town of Bath or its trustees would have assumed any responsibility or liability of any kind in connection with the sums used for the construction of the road, except their faithful disbursement. It had no power to fix the tolls. The trustees were not responsible to the city for the expenditure of the money. It was not the money of the city. There is no intimation in the Act that the Town of Bath or its trustees was to return the amount the State expended or any part of it, or that indicates that the State ever expected it to be returned. In every instance where the State made a loan to which my attention has been called, specific and detailed provisions for security and repayment have been made. The Act must be read as a whole, and so reading it, the only liability assumed by the Town of Bath was to make good any deficit in interest that might exist, after exhausting for each payment, first the surplus of tolls after the payment of the “necessary expenses and repairs of the road” and second, “the receipts on account of bathing at the medicinal springs belonging to the commonwealth in the Town of Bath.” That this has not been a very great burden appears from the fact that while nearly 13 years had elapsed the town had paid during that time for that deficit the sum of \$750, less than 3% per annum.

It is earnestly insisted that the fact that the auditor of Virginia

described this as a loan in his report, that both accountants so described it in their joint schedules and that the act is printed in the appendix under the heading "Loan to the Trustees of the Town of Bath," should be given determining weight in establishing its character as a loan. It is believed that the Act itself and not the manner in which some one has characterized, or described it, must control. It is difficult to conceive of a loan in which the sum loaned is not under some contingency to be returned, an essential element wanting in this instance. It is also difficult to conceive of the beneficial ownership of a public work the use of which the owner has no right to control. This was not an investment or a loan and comes fairly within the scope of an expenditure "within the territory now constituting the State of West Virginia" and is allowed as such.

SUMMARY.

I find that the expenditures made by the Commonwealth of Virginia within the territory now constituting West Virginia are as follows:

1.	Amount agreed upon by both parties.....	\$1,251,228.92
2.	Covington & Ohio R. R.....	\$1,146,460.42
10.	Kanawha Turnpike	\$ 152,130.54
11.	" " 	\$ 2,593.45
12.	" " 	\$ 7,189.65
13.	" " 	\$ 80,955.28
14.	Kanawha River Improvements.....	\$ 59,572.36
		\$ 302,902.15
25.	Brandonville, Kingwood & Evansville Road....	\$ 10,595.73
28.	Clarksburg & Buchanan Turnpike (Macadamiz- ing)	\$ 19,259.36
35.	Kingwood & West Union Turnpike.....	\$ 18,140.61
55.	Surveys—expended directly within the terri- tory	\$ 60,873.19
150.	Road from Bath to St. Johns River.....	\$ 2,500.00
	Total	\$2,811,559.98

ALTERNATIVE FINDINGS :

At the request of defendant.

The Commonwealth received on account of the Blue Ridge Railroad bonds and interest.....	\$625,348.08
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and was relieved from a contingent liability upon a guarantee of.....	\$100,000.00
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3. At the request of the plaintiff, the Commonwealth subscribed and paid for capital stock of the Winchester & Potomac Railroad Company, to the extent of	\$120,000.00
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The Commonwealth loaned to the said company.....	\$150,000.00
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Upon the basis of mileage, the proportion of these sums that would be chargeable to West Virginia, is	\$170,532.00
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I state as a special circumstance important to be taken into account that as a result of legislation predicated upon both the stock and loan that the Commonwealth had in this Road, there was paid into the Commonwealth in 1886, the sum of.....	\$118,518.12
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6. At the request of the plaintiff, that the Commonwealth subscribed and paid for stock in the Berryville and Charlestown Turnpike Co. and upon the mileage basis of 58 1/3 per cent. the amount chargeable to West Virginia would be.....	\$11,932.52
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15. At the request of the plaintiff, that the Commonwealth loaned to the Kanawha Board of its bonds	\$60,000.
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56. At the request of the plaintiff, that..... was in the hands of the Treasurer of the Trans-Allegheny Lunatic Asylum, deposited in the Weston Branch of the Exchange Bank of Virginia, unexpended, January 1, 1861, which was	\$27,000.
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afterwards taken from the Bank by the Restored Government of Virginia and subsequently returned to the Asylum.

At the request of the plaintiff, that in the various bridge companies, located in West Virginia, Items 57 to 65, inclusive, the Commonwealth subscribed and paid for stock..... \$78,412.50

That in the various navigation companies located in West Virginia, Items 66 to 69, inclusive, the Commonwealth subscribed and paid for stock.... \$210,500.00

That in the various Turnpike companies, Items 70 to 147, inclusive, all of which were in the territory now constituting West Virginia, the Commonwealth subscribed and paid for stock..... \$803,555.83
\$700,103.49 of which was wholly in Virginia and \$103,452.34 was West Virginia's portion in case of companies partly within her limits.

That in the two banks mentioned in Items 148 and 149, within the territory now constituting the State of West Virginia the State subscribed and paid for stock..... \$391,800.00

At the request of the defendant, I find that the sum of \$2,500 was invested under circumstances where the trustees of the Town of Bath assumed a contingent liability, only, of paying the interest upon the sum expended by the State, after the tolls remaining from the operation of the road after the payment of "necessary expenses and repairs" and profits received from the operation of a spring, were applied thereto, and that this was the only liability that the trustees of the Town of Bath assumed in connection with this expenditure of.. \$2,500.

PARAGRAPH IV OF DECREE.

4. "SUCH PROPORTION OF THE ORDINARY EXPENSES OF THE GOVERNMENT OF VIRGINIA SINCE ANY OF SAID DEBT WAS CONTRACTED, AS WAS PROPERLY ASSIGNABLE TO THE COUNTIES WHICH WERE CREATED INTO THE STATE OF WEST VIRGINIA ON THE BASIS OF THE AVERAGE TOTAL POPULATION OF VIRGINIA, WITH AND WITHOUT SLAVES, AS SHOWN BY THE CENSUS OF THE UNITED STATES."

This paragraph involves the determination of the question as to what expenses are to be included within the term "ordinary expenses of the Government of Virginia."

The defendant contends that the language should receive a construction that would make "ordinary" synonymous with "necessary" or "essential" used in the sense of indispensable expenses,—expenses which if not paid the wheels of Government will cease to revolve, without the payment of which the State Government cannot be administered.

Whenever I use the term "essential" in the discussion, I shall use it in the sense of being indispensable. I have made an exhaustive examination of the cases where state or municipal expenditures have been under consideration or in which reference has been made to them. I find there are very few cases that attempt to define the term "ordinary expenses." The term does not appear to have been used with much precision unless it is to be held to be in fact synonymous with "current" or "necessary." There are many cases that use the terms "ordinary" and "current" interchangeably as though they were synonymous and attention does not appear to have been called to the question as to whether or not there is any distinction between them. They are here cited:

State ex rel v. Mayor Kansas City, 58 Mo. App., 124-129.

Com. v. Commissioners, 1 Wharton (Pa.), 1-3.

Ward v. Piper, 69 Kan. 773-75.

Iowa R. R. Land Co. v. Co. of Sac, 39 Iowa, 124, 134-135.

Grant v. Davenport, 36, Iowa, 396, 401.

French v. Burlington, 42 Iowa, 614, 618.

Council Bluffs v. Stewart, 51 Iowa, 385, 396.

Windsor v. Des Moines, 110 Iowa, 175, 190.

Cedar Rapids v. Betchel, 110 Iowa, 196-198.

Swanson v. Ottumwa, 118 Ia., 161-172-179.

- Kent v. U. S.*, 113 F. R., 232, 238-9.
Dawson v. Water Works Co., 106 Ga., 696, 717.
Walla Walla v. Walla Walla Water Co., 172 U. S., 1-20-21.
Smith v. Dedham, 144 Mass., 177-180.
Watkins v. Macon County Court, 68 Mo., 29-42.
Security Co. v. Baker, 33 Ore., 338, 350.
Sherman v. Smith, 12 Texas Civil App. 580-583.
State v. Sheldon, 53 Neb., 365-6.
Valparaiso v. Gardiner, 97 Ind., 1-12.
Corpus Christi v. Woessner, 58 Texas, 462-7.
Wichita Falls v. Skeen, et al., 18 Tex. Civ. App., 632-3.
McNeill v. Waco, 33 S. W. R., 322-3.
Luther v. Wheeler, 4 L. R. A., N. S., 746-749.
Arnold v. Hawkins, 95 Mo., 569-571. *Cyc*, Vol. 28, p. 688.
In re State Warrants, 6 S. D., 518-521.
Lumber Co. v. Munising, 123 Mich., 138-141-2.
Book v. Earl, 87 Mo., 246-255.

The term "ordinary" has frequently been used in the discussion of expenses of this character, as synonymous with "necessary."

The cases that use these terms interchangeably are as follows:

- Coffin v. Davenport*, 26 Iowa, 515-20.
South Bend v. Reynolds, 155 Ind., 70-73.
Voss v. Waterloo Water Co., 163 Ind., 69-84.
Laycock v. Baton Rouge, 35 La. Ann., 475-480.
Lumber Co. v. Munising, 123 Mich., 138-141.
In re Lim. Taxation, 3 S. D., 456-8.

There are a number of cases that use the term "ordinary expenses" alone, such as the following:

- Williamsport v. Com.* 90 Pa. St., 498-503.
Polk v. Winett, 37 Iowa, 34-5.
Cleveland v. U. S., 111 F. R., 341-346.
Law v. People, 87 Ill., 385-409.
Water Works v. Carterville, 153 Mo., 128-134.
California v. McCauley, 15 Cal., 429-455.
Livingston v. Pippin, 31 Ala., 542-550.
Scott v. Peterborough, 19 U. C., Q. B., 469-472.

Cross v. Ottawa, 23 U. C., Q. B., 288-291.
Com. v. Gregg & ano., 161 Pa. St., 582-7-8.
Brown v. Corry, 175 Pa. St., 528-31-32.
Nougues v. Douglas, 7 Cal., 65-7-8.
Lehigh Coal Nav. Co. Appeal, 112 Pa. St., 360-9.
Stetson v. Kempton, 13 Mass., 271-8.
Mills v. Richland, 72 Mich., 100.
Marathon v. Oregon, 8 Mich., 372-382.
Quincy v. Jackson, 113 U. S., 332-6.
Clark v. Davenport, 14 Iowa, 494-501.
Sherman v. Carr, 8 R. I., 431.

There are other cases that refer to such expenses as "current expenses" like the following :

White v. Mayor & Council of Decatur, 119 Ala., 476-80.
Pettibone v. West Chicago Park Comrs., 215 Ill., 304, 322.
Anniston v. Hurt, 140 Ala., 394-9.
E. St. Louis v. U. S., 110 U. S., 321-4.
Sibley v. Mobile, 3 Woods (U. S. C. C.), 535-41.
Foland v. Frankton, 142 Ind., 546-50.
Spilman v. Parkersburg, 35 W. Va., 605-618.
Valparaiso v. Gardiner, 97 Ind., 1-13.
Humphrey v. Mercantile Association, 50 Iowa, 607-611.
Comrs. Leake Co. v. Keene Savings Bank, 108 F. R., 505-514.
Brashear v. Madison, 142 Ind., 685-690.
Laporte v. Gamewell and Fire Alarm Tel. Co., 146 Ind., 466-470.
State v. City of Helena, 24 Mont., 521-30.
E. St. Louis v. Flannigan, 26 Ill. App., 449, 463.
E. St. Louis v. People, 6 Ill., App., 76-9.
Fowler v. Austin Mfg. Co., 5 Ind. App., 489-490.
Amer. & Eng. Ency. of Law, Vol. 20, p. 1176.
Denison v. Foster, 37 S. W., 167.
Weinstein v. Newbern, 71 N. C., 535-6.
State ex rel. v. Graham, 23 La., 402-407.
City of Erie, 91 Pa. St., 398-402.
C. & A. R. R. v. People, 77 Ill., 91-3.

Under the authorities heretofore cited it would seem to be clear

that the courts treat the terms "ordinary" and "current" when applied to the expenditures of a state or a municipality, as synonymous.

The great question in this case is whether interest on the public debt is an "ordinary expense."

The defendant relies upon the line of cases where judgment creditors seeking to recover payments from the revenues of the municipality have been postponed to ordinary, current or necessary expenses, which are made a primary charge upon revenues. The cases clearly establish the general doctrine. From some of them it might perhaps be inferred that interest was not a primary charge or an ordinary, current or necessary expense. I find none of them however where the specific question as to whether interest is or not an "ordinary expense" is discussed. It is very clear that all essential expenses are also "ordinary expenses," but it does not by any means follow that all "ordinary expenses" are essential expenses, that there may not be "ordinary expenses" which are not essential expenses. If it were true that judgment creditors were postponed only to essential or indispensable expenses, the case might be entitled to considerable significance. On the contrary, however, the postponing of judgment creditors is not confined to essential or indispensable expenses, as expenses which do not come within that class, are often held to be primary in their character and to precede judgment creditors as a charge upon the current revenues.

The following cases show that such current or ordinary expenses as light, water and fire protection, none of which are essential to the revolution of the wheels of government, have been held to be ordinary or current expenses that will be made a charge upon the revenues prior to the claims of judgment creditors thus demonstrating that the essential character of the expenditure is not the test of an "ordinary expense."

Foland v. Frankton, 142 Ind., 546, 550.

Valparaiso v. Gardiner, 97 Ind. 1.

Cleveland v. U. S., 111 F. R. 341-346.

White v. Mayor and Council of Decatur, 119 Ala., 476,

where the Court thinks that while

"the support and maintenance of public schools is not an essential municipal function" (p. 482),

they would treat it as a "current expense of administering the municipal government" (p. 482).

Leporte v. Gamewell, 146 Ind., 466-70.

Sherman v. Smith, 12 Tex. Civ. App. 580-582-3.

Laycock v. Baton Rouge, 35 La. 475-81.

In *Sherman v. Smith* (*supra*) the Court recognized the fact that expenses for fire, water and lights were not essential but held that they were a part of the current expenses and preferred to judgment creditors.

"we may consider that they could be dispensed with and an efficient City Government conducted without them" (p. 583).

Expenses for fire, water, lights and repairs and construction of bridges, are held in the following cases to be ordinary or current expenses:

Valparaiso v. Gardiner, 97 Ind. 1.

Brown v. Corry, 175 Pa. St., 528-32.

Voss v. Waterloo Water Co., 163 Ind. 69-88.

Brodnax v. Groom, 64 N. C. 244-9.

Satterthwaite v. Beaufort, 76 N. C. 153.

Evans v. Com., 89 N. C. 154-9.

McKethan v. Com. Cumberland, 92 N. C. 243.

Livingston v. Pippin, 31 Ala. 542-50.

It would seem that the term "necessary town charges" was at least as exclusive and restrictive as "ordinary expenses," and yet it has been frequently held that under that designation, many expenses can be properly incurred, that cannot be held to be essential, or indispensable, to the operations of the government.

The Statutes of Maine authorize, after specifying a variety of purposes for which funds can be raised, the raising of taxes for "other necessary town charges."

In *Gale v. South Berwick*, 51 Maine, 174-6-7 in defining that provision the Court said:

"They embrace all incidental expenses arising directly or indirectly in the due and legitimate exercise of the powers con-

ferred upon towns. Accordingly they have ever received liberal construction.”

Clocks, repair of fire engines, construction of reservoirs to supply water, building a market house and town halls were cited as illustrations of the proper exercise of the power. In answering an inquiry from the Governor and Council the Court defined this clause as follows:

“The words ‘other necessary town charges’ * * * embrace all incidental expenses arising directly or indirectly in the due and legitimate exercise of the various powers conferred by statute.”

Opinions of Justices, 52 Me. 598.

In Massachusetts, under a Statute authorizing a tax for “other necessary charges,” the Court held that

“towns might raise such sums as should be necessary to meet the ordinary expenses of the year”

and that the

“erection of buildings for the accommodation of the inhabitants, such as town houses to assemble in, and market houses for the sale of provisions may also be a proper town charge and may come within the fair meaning of the term necessary; for these may be essential to the *comfort and convenience of the citizens.*”

Stetson v. Kempton, 13 Mass. 271-8.

Under this clause towns can indemnify officers in the *bona fide* discharge of their duties.

Bancroft v. Lynnfield, 18 Pick, 566.

Make repairs on clocks,

Willard v. Newberryport, 12 Pick. 227.

Invest in fire engines,

Allen v. Taunton, 19 Pick. 485.

Build a market house,

Spaulding v. Corcall, 23 Pick. 71.

A town house,

Friend v. Gilbert, 108 Mass. 408.

“Make contracts necessary and convenient for the exercise of their corporate powers,”

Agawam Nat. Bank v. South Hadley, 128 Mass. 503-5,

and build a public hall—

Wheelock v. Lowell, 196 Mass. 220.

These cases clearly extend the scope of necessary town charges beyond those which are absolutely essential or indispensable to the operations of government. Great stress was laid in the argument upon the part of the defendant upon the particular language of the decree which requires a finding of the “ordinary expenses of the Government”. The Ordinance upon which the decree is predicated reads in this particular: “the ordinary expenses of the state government”. The language of the decree so far as there is any distinction is less emphatic if regard is had to the technical language used, the word “state” being omitted, but it is improbable that any significance is to be attached to the omission, and very doubtful if the Court had in mind in making the decree the distinction contended for. The argument is that the ordinary expenses are confined to the expenses of “*the state government*” or of “*the government*” as contradistinguished from what might be termed in a broader sense state or municipal expenses. The contention being that there are expenses which are proper expenses, on the part of the state that are not essential, or indispensable, to the operations of the Government, and that the language of the ordinance and the decree mean that the ordinary expenses “of the government” or “of the state government”, are essential expenses, and thus limit the

ordinary expenses, to such expenses, as are indispensable to the operations "of the state government."

I find that similar language has been frequently used in the opinions, without attributing to it the technical and restrictive meaning contended for by the defendant. It has quite clearly been used as synonymous with state or municipal expenses generally rather than as restricting the term to essential expenses.

In *White v. Mayor & Council of Decatur*, 119 Ala., 476, the court referred to current, legitimate municipal expenses and in the same paragraph referred to the same expenses as "*governmental expenditures*" (480) and "current expense of administering the municipal government" (p. 482) evidently meaning the same thing. The Court expressly held in that case that while the support and maintenance of public schools are not an essential, municipal function, they would treat it as a necessary "*governmental expenditure*" as that function was "vested in the Mayor and Council of Decatur" by statute and the "power and duty" were "in and upon them".

In *Anniston v. Hurt*, 140 Ala. 394, 400, the Court referred to "necessary expenses of *administating the municipal government*" and "the object of corporation expenditures" and "expenses for *governmental purposes*" and "expenditure for *administration of governmental purposes*" and "necessary current expenditures" as apparently meaning one and the same thing. The question of what was or was not an "ordinary expense" did not arise in that case, and the Court discussed the question as to whether interest was or not a necessary current expenditure as a question depending upon the construction of the particular statutes being discussed.

In *City of Erie*, 91 Pa. St. 398, the Court referred to "ordinary expenses of the *City Government*" (p. 403) without indicating that they were confined to expenses indispensable to the operations of the government.

In *Corpus Christi v. Wossner*, 58 Tex. 462-7, the Court referred to ordinary, "current expenses of *her local government*" in the same connection in which they speak of current and ordinary expenses, and without a suggestion of any distinction between governmental and current or ordinary expenses.

In *Nougues v. Douglass*, 7 Cal. 65-7-8, the Court referred to

“ordinary expenses of the *state government*” and “ordinary expenses of the *state*” and “the expenses of the *state government*” and the necessary and “ordinary expenses of the *state*” and the “ordinary expenses of government,” evidently meaning the same thing in each instance.

In *Weinstein v. Newburn*, 71 N. Y., 535, 536, the Court speak of “current expenses of the *city government*” and “the necessary current expenses” clearly meaning the same thing.

In *Sherman v. Smith*, 12 Tex. Civ. App., 580, 583, the court likewise referred to “her current and ordinary expenses” and then “for the payment of expenses of government,” and “proper current expenses” (p. 584) all meaning the same thing. In *Wilson v. Charlotte*, 74 N. C., 748, 749, the Court referred to “the necessary expenses of the *government of a city*” (p. 759) clearly meaning “necessary expenses of the year,” and with the same meaning the Court in *Mills v. Richland*, 72 Mich., 100, 107, said “necessary expenses incurred in administering the *government* of the township.” So in *Herman v. Oconto*, 110 Wis., 666-678, the Court said “such as are necessary to carry on the *city government*.”

The frequency with which this language has been used by the Court with its general signification would seem to indicate that the language of the decree is hardly entitled to the technical construction relied upon by the defendants.

Did the framers of the ordinance have in mind any distinction between “ordinary expenses of the *state government*” and ordinary expenses of the Commonwealth? What distinction is there between them in their relation to a “just proportion of the public debt”? Are they not each equally a common burden paid from a common fund for the common benefit? What reason is there that would require the inclusion of one that would justify the exclusion of the other?

Moreover, the defendants concede as ordinary expenses items which do not appear to be essential to the revolution of the wheels of government.

Board of Public Works, Salaries and Expenses.....	\$134,108.03
Deaf, Dumb and Blind Institute.....	\$384,161.09
Geological Survey	\$42,480.61
Lunatic Hospitals	\$1,635,583.36

Military Establishment	\$1,030,694.11
Primary Schools	\$655,908.73
University of Va.....	\$613,287.00
Virginia Military Institute.....	\$207,084.87
(Defts.' original Ex. D1.)	

There are very few cases undertaking to give anything like a definition of what "ordinary expenses" are, and perhaps with but one exception none of those are very closely in point on the question of interest, though a number of them give definitions broad enough to include interest.

In *East St. Louis v. U. S.*, 110 U. S. 321, the Court in discussing the general question of municipal expenses said:

"That fund by the terms of the Charter of the City under which the bonds were issued is authorized for the purpose of paying the necessary, current expenses of administration *not including payments on account of the bonds of the municipal corporation*" (p. 324).

The fact that the Court found it necessary to exclude specifically from the scope of "necessary current expenses" bonds of the municipal corporation gives rise to some inference at least that they understood that without such exception such bonds would be fairly included within the term "necessary current expenses." If payment on account of bonds was included interest on the bonds would also be included.

In *Wilson v. Charlotte*, 74 N. C., 748, the Court said:

"It would be difficult or impossible to draw a precise line between what are and what are not the necessary expenses of the government of a city. The analogy of the law of necessities for infants is the only one that occurs to us. It is held, that if, considering the means and station in life of the infant, the articles sold to him *may* be necessities under any circumstances, they come within a class for which the infant may be liable, and upon his refusal to pay, it is for a jury to determine whether under the actual circumstances they were necessary. If, however, the articles are merely ornamental, and such as cannot, under any circumstances be necessary to one of the means and station of the infant, a Court may, as a matter of

law, declare that the infant is not liable. We do not undertake to say that this analogy will furnish a rule which will admit of a close application, but if treated merely as an analogy in the absence of other guides, it may be of some general use (p. 759).

In *Brown v. Corry*, 175 Pa. St., 528, the Court said:

“The ordinary expenses, at least many of the ordinary expenses, must be incurred and paid or the city cannot exist.
* * * And any expense that recurs with regularity and certainty and is necessary for the existence of the municipality, or for the health, comfort and perhaps convenience of the inhabitants may well be called an ordinary expense” (p. 531).

In *Mills v. Richland*, 72 Mich., 100, the Court said:

“What shall be deemed as the ordinary expenses of a township is a question which has never received any very satisfactory answer, and it would be difficult to glean one from what has been said in this Court. I think, however, it may well be said the answer can *never include less than the necessary expenses incurred in administering the Government* of the Township under the Statutes creating it and relating thereto, in such manner as will best promote the convenience, peace, health, and prosperity and happiness of the people residing therein. This would, as has been held by this Court in *Marathon v. Oregon*, 8 Mich., 382, include the payment of the indebtedness to the Township of Mills” (pp. 106-7).

It seems that the Town of Richland had been set off from Mills and this was an action to recover a portion of the debt due from Richland to Mills. The opinion in *Marathon v. Oregon*, above cited, proceeds upon the peculiar language of the statute being construed. It authorized the Township

“to vote such sums as they may deem necessary for defraying *all proper charges and expenses arising in the Township*” (p. 381).

and the Court held that both charges and expenses were included in the terms ordinary township expenses, saying

“It is certainly no violation of terms to class the payment of debts ascertained among ordinary expenses” (p. 382).

In *Smith v. Dedham*, 144 Mass., 177, 180, the Court seemed to make annual payment the criterion as they held that an annual payment for water for a period of five years was “for a sum of money to be paid annually, among the *other* current expenses of the town.”

In *Livingston v. Pippin*, 31 Ala., 542-50, the Court gave this definition, “Ordinary expenses are the expenses which are necessary to carry into effect the ordinary powers of the corporation. * * * Under the rule above laid down, the implied and incidental powers of corporations must be classed as ordinary powers.”

In *Herman v. Oconto*, 110 Wis., 660, the Court said:

“It cannot be said with any show of right that the building of a sewer system is a current expense. While it is not easy to accurately define what may be included under that head still it is plain that it must be limited to such as are necessary to carry on the city government—such as are usual and ordinary from year to year” (p. 678).

The case of *State v. Leaphart*, 11 S. C., 458, is very closely in point. All three of the judges wrote opinions, and all concurred in holding that interest was an ordinary expense. *C. J. Willard*, in his opinion, said:

“Ordinary expenses include the current expenses of the government and debts to mature during the current fiscal year” (p. 469).

“* * * to such purposes as properly fall within the description of ‘ordinary expenses of the government,’ that is to current expenses and debts maturing during the fiscal year” (p. 471).

He held that the Act being construed could only be regarded as a general annual tax levied for ordinary expenses, and ordered a man-

damus to issue for the payment of the interest on the public debt out of the tax as an "ordinary expense." *Haskell, J.*, said:

"When bonds have been issued to raise money to meet an 'extraordinary expenditure' they become a standing liability of the State, and the interest as it falls due becomes an 'ordinary expense' to be included within the 'estimated expenses,' to make up the amount to be levied annually and appropriated annually" (p. 477),

and again

"The only difference between the interest on such bonds and any other annual expense is, that the interest is made by the Constitution, an obligatory expense, while many other expenses may be at the option of the legislature" (p. 477):

"The tax is levied for the expenses of the current fiscal year. The objects to which the tax *must* be applied are the items contained in those estimated expenses. Expenses include the payment of recognized indebtedness as well as any outlay that the Legislature may deem proper to make during the year" (p. 478).

The case showed that

"The Act of 1876-7 provides for the payment of the current expenses of the government and certain indebtedness matured or to mature. It is therefore clearly a general tax levied as such, entirely subject to the control of the legislature *provided* the purposes to which it is appropriated fall within the general class of 'ordinary expenses' " (p. 471).

The mandamus was prayed for among other things to secure the payment of interest falling due Jan. 1, 1879. McIver, Judge, who dissented upon one point held that the relator was entitled to a mandamus for the interest for that year.

This case was cited with approval in *State v. Derham*, 61 S. C. 258, 262. The plaintiff relies upon *In re Limitation Taxation*, 3 S. D. 456 where the Court said:

"The 'ordinary expenses' of the state are practically defined

in Section 2, Art. 12 of the Constitution and are the 'ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of the state institutions, interest on the public debt and for common schools' " (p. 460).

An examination of the Constitutional provision thus referred to discloses the fact that it does not purport to define "ordinary expenses" but simply provides that

"The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the State, the current expenses of the state institutions, interest on the public debt, and for common schools" (Con. Art. 12, Sec. 2).

So far as this case has any weight, it tends to negative the contention of the plaintiff. Properly considered it gives no definition and incorrectly states the effect of the constitutional provision. It is contended upon the part of the plaintiff that the term "ordinary expense" is flexible in its character and is to receive a construction in harmony with the circumstances and conditions under which it is used. It was urged in argument upon the part of the defendant that it was in a sense analogous to the term "necessaries," the analogy used by the Court in the case of *Wilson v. Charlotte (supra)*. If it be true that the analogy exists, it would clearly establish the flexible or varying character of the meaning of the term, as it is too clear for the citation of authorities that necessities may include articles in connection with one individual that would be clearly excluded when applied to another individual. Ordinary expenses involves the payment of at least current indebtedness. There may be some parallel between an expense and a debt. It has been frequently held that the word debt "has no fixed legal signification, as has the word 'contract,' but is used in different statutes and constitutions in senses varying from a very restricted to a very general one."

McNeill v. Waco, 33 S. W. R., 323 (*supra*).

Swanson v. Ottumwa, 118 Ia., 161-171 (*supra*).

The case of *Union Pac. R. R. v. U. S.*, 99 U. S., 402, was relied upon by the defendant, so far as applicable. The Court were there

discussing the question as to what would be the net earnings as distinguished from the gross earnings of a railroad company, and they said :

“As a general proposition net earnings are the excess of the gross earnings over the expenditures defrayed in producing them, aside from, and exclusive of, the expenditure of capital laid out in constructing and equipping the works themselves. It may often be difficult to draw a precise line between expenditures for construction, and the ordinary expenses incident to operating and maintaining the road and works of a railroad company. Theoretically, the expenses chargeable to earnings include the general expenses in keeping up the organization of the company, and all expenses incurred in operating the works and keeping them in good condition and repair; whilst expenses chargeable to capital include those which are incurred in the original construction of the works, and in the subsequent *enlargement and improvement* thereof. With regard to the last mentioned class of expenditures, however, namely, those which are incurred in enlarging and improving the works, a difference of practice prevails amongst railroad companies. Some charge to construction account every item of expense, and every part and portion of every item, which goes to make the road, or any of its appurtenances or equipments better than they were before; whilst others charge to ordinary expense account, and against earnings, whatever is taken for these purposes from the earnings, and is not raised upon bonds or issues of stock. The latter method is deemed the most conservative and beneficial for the company, and operates as a restraint against injudicious dividends and the accumulation of a heavy indebtedness” (pp. 420-1).

So far as this case has any significance it seems to establish the proposition that the term ordinary expense has no fixed and arbitrary signification; that it may include at one time what would be excluded at another time. The Court in that case adopted the broad construction, on the ground that it was the “wisest and most prudent method,” and was what they called “a liberal application of the earnings to the improvement of the works.”

If the case of *City v. Leaphart* (*supra*) is to be treated as an authority, the interest would clearly be an ordinary expense.

If current or ordinary expenses are the converse of current or ordinary revenue, then interest in this case would be an ordinary expense, as it was expressly provided for in the current or ordinary revenues, and made mandatory by the constitution.

In the classification adopted by the United States Treasury Department (Rep. Sec. Treas., 1874, pp. IV. and V, do. 1904, House Doc., 58th Cong., Vol. 31, p. 5), and by the United States Census Office (11th Census, Vol. 50, pt. II, pp. 418-19, 464-77, 516-553, 556-7), and the State of Ohio, Rep. Bureau Insp. and Sup. of Pub. Off. of 1906, pp. 72-79, interest is classified as an "ordinary expense." It is so held by Bastable on Public Expenditures, pp. 130-3.

There are several important considerations to be taken into account in determining this question:

First.—The cases of judgment creditors seeking to secure payment out of the ordinary or current revenues of a municipality are certainly not directly in point. This is not a controversy between a judgment creditor and a municipality. It does not involve the question as to whether, if a claim against the municipality were allowed, there would still remain sufficient current revenues for the payment of either the indispensable or the ordinary and current expenses of the state. It is a question between two parties who were jointly interested in the incurring of a joint liability and the question to be determined is what proportion of this joint liability is to be assumed by each. This is the question whether it be reached under the Wheeling Ordinance or under the general principles of International Law. There is therefore no warrant for applying the strict construction that would be applicable in the case of an action by a judgment creditor.

Second.—The Constitution of Virginia makes the interest upon the public debt a specific annual charge upon the revenues:

"There shall be set apart annually from the accruing revenues a sum equal to seven per cent. of the State debt existing on the first day of January in the year one thousand eight hundred and fifty-two. The sum thus set apart shall be called the Sinking Fund and shall be applied to the payment of the interest of said debt and the principal of such part as may be redeemable."

(Con. of Va., Art. IV, Sec. 29, Code Va., 1860, p. 47).

With this specific Constitutional provision requiring "the interest of said debt" to "be set apart annually from the accruing revenues," it may well be doubted whether if this were an action by a judgment creditor against the state, the Courts would not be required by the constitution to postpone such creditor to the payment of interest on the ground that it was not only an ordinary expense, but was a specific constitutional security, annually to be set apart for the benefit of the state's creditors, which would be preserved inviolate for the benefit of the holders of the interest on its public debt.

Third.—Under the provisions of the Ordinance, the defendants are to be charged with the amounts expended within the limits of West Virginia. In order to make these expenditures Virginia hired the money and has paid the interest thereon. If interest is not an ordinary expense, West Virginia would be charged with the principal sum thus hired and expended, but would not be charged with the sums thus paid by Virginia for the use of the money thus hired and expended. If the money thus hired and expended is a proper charge it is upon the theory that Virginia should be reimbursed therefor, and no reason is preceived why she is not on general principles, as much entitled to be reimbursed the sums, that she has paid for the use of the principal sum, as she is to be reimbursed for the principal sum itself. No good reason has been suggested why, as a matter of equity, if liable for the principal sum, West Virginia is not also liable for interest thereon. Unless allowed as an ordinary expense, she will not pay any part of the interest, and the whole burden of the payment of interest, will be assumed by the State of Virginia, a result which would be clearly inequitable.

It is not an adequate answer to say that the Commonwealth has had the use of the improvements, because these improvements are local in their character, and so far as the public use of them is concerned, that use has been confined to the limits of West Virginia. If allowed as an ordinary expense, the portion of the Commonwealth that has derived the local benefit from the use, would also assume the burden of paying its proportion, for the use of the money thus expended, otherwise, the remainder of the Commonwealth which has had no benefit from the use, would be paying for the use of all the money thus expended. If tolls were received by the Common-

wealth from any of the public improvements, on account of which expenditures are charged, each portion of the Commonwealth has received its pro rata benefit therefrom. The disbursements made by the Commonwealth during this period came from three sources, loans, income and taxation. As the income increased or decreased, the sums raised by taxation necessarily decreased or increased, each section receiving in accordance with the proportion of the burden it was assuming, its proportional benefit of the income, thus received. Just how a "just proportion" of the ordinary expenses is to be ascertained does not appear, but in reaching the conclusion as to what an ordinary expense is, I must assume that it will be ascertained upon a proper basis, and that every legitimate consideration tending to determine the "just proportion" will be given due weight.

That the term "ordinary expense" is not fixed and definite, but is more or less flexible and varying in its meaning, is, I think, reasonably well settled by the authorities.

If, as used in the decree, it is of doubtful meaning, and is open to two constructions, one of which would produce an equitable result, the reading, with the decree, of the constitutional provision requiring the assumption by the State of an equitable proportion of the debt, would require the doubt to be resolved in favor of the equitable result.

It seems to me upon reason and authority that the interest upon the public debt of the State of Virginia is "one of the ordinary expenses of the Government of Virginia" within the meaning of the language of the Wheeling ordinance and the decree predicated thereon.

EXTRAORDINARY EXPENSES.

The question as to what is an "extraordinary expense" seems to be well settled.

In *Supervisors v. U. S.*, 18 Wall, 71, 79, the Court referred to aid in the erection of buildings as "an extraordinary expenditure."

In *Union Pac. R. R. v. U. S.*, 99 U. S., 402, the Court referred to expenses for the "enlargement and improvement" as capital expenses.

In *South Bend v. Reynolds*, 155 Ind., 70, 73, the Court held that

“While the rent for suitable offices for city officers is an ordinary and necessary expense, the erection of a city hall or a building for the use of the city officers is not in any sense an ordinary expense, but is an extraordinary one.”

In *Voss v. Waterloo Water Co.*, 163 Ind., 69, 85, the Court held that the construction of water works or an electric light plant

“is not in any sense an ordinary and necessary expense, but an extraordinary one.”

because such an expense involved

“municipal ownership of the water and light plant, the means of furnishing said water and light, and is an extraordinary expense.”

In *Brown v. Corry*, 175 Pa. St., 528, 532, the Court said:

“I can see a very clear distinction between ‘a contract for the supply of water and one for the means of furnishing the supply.’ The one may pertain to an ordinary expense, and the other, if it involves municipal purchase and ownership of the means of furnishing the supply, can only pertain to an extraordinary expense.”

See also *Grant v. Davenport*, 36 Ia., 396, 403.

In *Book v. Earl*, 87 Mo., 246, 256:

“Remodeling and building three new additions to the Court House”

was held not to be an ordinary expense but an extraordinary expenditure.

In *Mills v. Richland*, 72 Mich., 100-6-7, the expenses of “establishing lost section corners” and “building a town hall” were held not to be included within the term “ordinary expenses.”

In *Helena Water Co. v. Helena*, 31 Mont., 243, the Court held that the installation of a water plant was not a “current expense” as it was an expense that partakes of the nature of an investment, or

such as are to be incurred in a substantial or permanent improvement.

It seems to be well established that the "construction, enlargement and improvement" of a plant are a capital investment, an extraordinary expense, and that its maintenance and operation is an ordinary expense. It is not perceived that there is any substantial distinction between the increase of the size of the plant and amount of the investment and the original construction or the original investment. If it is construction, addition to plant, "enlargement and improvement;" an investment, and not maintenance or operation, then it is an extraordinary expense.

The parties agree upon items making up an aggregate of the ordinary expense of government of \$18,207,684.29 (Rec., p. 515). They reach this amount by deducting from an aggregate of receipts, of \$18,761,154.51, the sum of \$553,470.22. This sum is the result of eight items. Deft. original Ex. D-1 p. 4.

Inspectors of Tobacco.....	\$389,694.91
Less Expense of Commissioners.....	\$33,698.36
Refunds	203.46
Paid for burnt Tobacco.....	2,669.13
	36,570.95
Leaving a balance of.....	\$353,123.96
Inspection of vessels.....	2,621.26
Land office Registration fees.....	177,115.05
Tax on private seal.....	2,090.60
Tax on Express Companies.....	2,199.71
Tax on Insurance Companies.....	6,533.99
Weighmaster of Live Stock.....	\$ 8,493.32
Less cost of scales.....	3,019.78
	5,473.54
Miscellaneous	4,312.11
	\$553,470.22

NO. 1. TOBACCO RECEIPTS.

The seven items following the tobacco item are evidently of the same character and should be treated in the same manner, but for an admission of the plaintiff. The plaintiff admits them as credits,

not because they are proper items of credit, but only for the purpose of reaching an agreement as to the amount of that schedule, and the propriety of treating the tobacco item as a credit, is not to be affected by that admission. If the tobacco item is not a proper credit, it is to be added as an ordinary expense to the sum of \$18,207,684.29, agreed upon, as in reaching that sum it has already been deducted, and the charge will offset the credit. Virginia made elaborate provisions for the inspection of tobacco. It contemplated first adequate protection to its great industry, and second, revenue. The law specifically provides that the salaries of the inspectors "are to be paid out of the receipts for inspection at such warehouse, and in no case is the state to be charged therewith, or with any other expense of such warehouse" (App. 157). The state in fact paid nothing on this account. The whole amount collected, \$389,694.91, was reduced by the sum of \$36,570.95 for expense of commissioners, refund, and paid for burnt tobacco and the balance, \$353,123.96, was paid into the treasury. This sum was not an expense of any kind. It was a receipt, and was not predicated upon an expense. I have authority to state disbursements only, not receipts. For the reasons above given I treat it as an ordinary expense, and add to the agreed sum, \$353,123.96.

ALTERNATIVE FINDING.

At the request of the defendant, I find that the Commonwealth received during the period prescribed from tobacco receipts the sum of \$353,123.96.

Item 2—Constitutional Conventions, \$258,906.28.

The fact that the decree requires a finding of the "ordinary expenses of the Government of Virginia" raises the necessary inference that there are expenses other than ordinary. Such expenses are both legitimate and proper but do not come within the definition of ordinary. Ordinary is defined by the Century Dictionary as "of the usual order, usual, customary, common," and by Webster as "2. Common, customary, usual." Anderson's Law Dict.: "common, usual, reasonable." These definitions come fairly within such definitions as the Courts have given and to them may be added such as recur with regularity and certainty. The only question to be determined is whether the various items claimed by the

plaintiff are usual, customary, common, recurrent, annual or regular in their character.

There have been two Constitutional Conventions during the period covered—one in 1829 and one in 1850 (App., pp. 159-160). That these conventions were a legitimate and proper exercise of a governmental function and that the expenses attendant thereon are both legitimate and proper is unquestionably true. It certainly cannot be considered as a usual, customary, regular or common expense. It does not come within the scope of an ordinary expense within the meaning of the decree and the item is disallowed.

ALTERNATIVE FINDING.

I make an alternative finding at the request of the plaintiff that there was actually expended by the Commonwealth for expenses attendant upon two Constitutional Conventions, held in 1829 and in 1850, the sum of \$258,906.28.

Item 3.—Slaves transported and executed, \$311,168.35.

This item is admitted by the defendant.

Item 4—Boundary lines \$16,704.78.

These boundary lines were run under the authority of specific acts of the legislature passed in 1822, 1833, 1847, 1858 and 1860 (App., pp. 166-171). Nothing appears in the record to indicate that this expenditure was one that could be called usual, customary, common, regular, or annual. On general principles the expense incurred in settling a boundary line could hardly be expected to recur so as to be in any proper sense, usual or customary. I disallow the item.

ALTERNATIVE FINDING.

I make an alternative finding at the request of the plaintiff that under the acts of the legislature above referred to, the Commonwealth actually expended in running boundary lines, \$16,704.78 within the time prescribed.

Item 5—Maps (Commonwealth)	\$16,628.04
“ (Board of Public Works)	11,446.48

\$28,074.52

The maps of the Commonwealth appear to have been made by virtue of the provisions of the statutes enacted in 1825, 1828, 1836, 1848 and 1853 (App. pp. 172-175). These acts all relate to specific maps for specific purposes, and none of them indicate that the work is to be one of a continuing character, usual, customary or common. The maps provided for once prepared, the office of the legislation was apparently accomplished.

I disallow the item.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the Commonwealth expended under and by virtue of the various acts of the legislature above referred to for maps, within the time prescribed, the sum of \$16,628.04.

As to the item of \$11,446.48, for maps for the Board of Public Works, I think a different rule applies.

It is conceded that the salaries and expenses of the Board of Public Works are an ordinary expense. It was a great and important branch of the government exercising control over its expenditures and discharging responsible duties involving a great many details. It is hardly to be expected that each item of expense incurred by this Board in the discharge of its duties would be duplicated or repeated so as to become as to that item usual, customary or continuing in its character.

Yet all the expense incurred by the Board in the proper discharge of its duty would be properly incurred and within the contemplation of the legislation creating the Board as a continuing body and investing it with its duties and responsibilities. Its expenses should be treated as a whole. All expenses that were reasonably necessary to the proper discharge of its duty are proper expenses, and should be included as a part of its aggregate of expenses and are, I think, fairly within the scope of the ordinary expenses of the Board. Maps for their use in the development of public improvements were such an expense, and I therefore allow the sum of \$11,446.48 as a part of the ordinary expenses of the Board of Public Works, and therefore a part of the "ordinary expenses."

ALTERNATIVE FINDING.

I find at the request of the defendant that the sum of \$11,446.48

was expended by the Board of Public Works within the time prescribed for maps for its use.

Item 6.—Deaf, Dumb and Blind Institution, \$80,661.94.

The details making up this item are found on pages 521-522-523, Joint Ex. D-1, pp. 5, 6 and 7. All of these items were expended either for original construction or “enlargement and improvement” of plant, each of them increasing the investment of the Commonwealth in the Institution. None of them were involved in its maintenance and operation, and under the authorities they were all extraordinary expenses and are therefore disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the aggregate sum of \$80,661.94 was expended within the time prescribed by the Commonwealth in original construction and additions and “enlargement and improvement” of the plant of the Deaf, Dumb and Blind Institution, the details of which are specifically mentioned on pages 5, 6 and 7 of Joint Exhibit D. 1 (Rec., pp. 521-2-3).

Item 7—International Exchanges, \$2,836.19.

This money was expended under the provisions of a statute of 1848 (App., pp. 185-6), which authorized an exchange between the United States and the French Government of various public documents. The act contemplates a continuation of such exchanges. It requires “a report annually to the joint committee of Library” indicating that a permanent annual exchange was contemplated by the Legislature.

I allow it as an ordinary expense, \$2,836.19.

Item 8—Overpayment of Treasury notes, \$50.

Nothing appears to show that this was a usual or customary expense or that it occurred more than once, or as to the circumstances

under which it did occur. I infer that it was paid on the error of some officer, and it could hardly be assumed that such errors would become usual and customary.

I disallow the item.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the Commonwealth overpaid on Treasury notes within the time prescribed the sum of Fifty Dollars (\$50).

Item 9—Printing Treasury Notes, \$375.74.

This expense was incurred under the provisions of an Act passed in 1856 authorizing the issue of Treasury notes (App., pp. 186-187). The Act contemplated a permanent method of borrowing money by Treasury notes "issued from time to time." While an appropriation is made for only three years, there is nothing in the Act that indicates that its operation was to be confined to any limited period of time. It contemplates an indefinite continuation of the work provided for.

I allow the item as an ordinary expense, \$375.74.

ALTERNATIVE FINDING.

I find at the request of the defendant that the Commonwealth paid within the time prescribed for printing Treasury notes under an Act passed in 1856, \$375.74.

Item 10—Loss on account of counterfeit money, \$190.

There is nothing in the record that discloses the circumstances under which the loss occurred, and I can only infer that it was one of the sporadic instances that might or might not occur in connection with a currency issued by the State. I cannot assume that such loss would be continuing, usual, or customary.

I disallow the item.

ALTERNATIVE FINDING.

I find at the request of the plaintiff that the Commonwealth lost within the time prescribed on account of counterfeit money \$190.00.

Item 11—Virginia Military Institute, new buildings, etc., \$151,000.00

The items making up this aggregate (found on pp. 524 and 525 Point Ex. D-1, pp. 8 and 9) are all for the erection of and additions to enlargements and improvements of, buildings connected with the Institute, and installing of heating and lighting plants and are withing the rules laid down extraordinary expenses, and therefore disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiffs that the Commonwealth expended in the erection of buildings and additions thereto and enlargement and improvements, and installation of heating and lighting plants, connected with the Virginia Military Institute the sum of \$151,000, the details of which appear on Joint Ex. D-1, pp. 8 and 9 within the time prescribed.

Item 12—University of Virginia, Repairs and Improvements to Buildings and Water Supply, \$25,000.00.

This sum was expended for “repairing and improving the buildings thereof and for furnishing a supply of water for the protection and preservation of the said buildings and other valuable property of the said Institution” (p. 526 Joint Ex. D-1, p. 10).

Repairing the buildings would undoubtedly be an ordinary expense. The burden is upon the plaintiff to establish the ordinary expenses. Nothing is contained in the record that will enable me to ascertain what part of the \$25,000 was expended for repairs, and in the absence of that information, no other course is open than to disallow the item, inasmuch as a portion of it at least is for an extraordinary expense. The analogy is very close between an item of this character and a case where a non-lien and a lien claim have been joined, in which case it is well settled that the introduction of the non-lien claims reduces the whole claim to the character of a non-lien claim.

I therefore disallow the item.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the

Commonwealth expended \$25,000 in "repairing and improving the buildings and furnishing a supply of water for the protection and preservation of said buildings and other valuable property of the University of Virginia" within the time prescribed.

Item 13—Improvements Public Square, \$1,456.91.

This item is admitted by the defendant.

Improvements Capitol Square, \$12,278.47 (Rec. 528 Joint Ex. D-1, p. 12).

All of the items making up this aggregate appear to have been either for construction of additions to buildings, "enlargements or improvements," or installation of water and light plants, and the item is therefore disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the Commonwealth expended, within the time prescribed for additions to buildings, "enlargements or improvements" and installation of water and light plants, \$12,278.47, the items of which appear on page 528 Joint Ex. D-1, p. 12.

Item 14—Fugitive Slave Expense and reward additional, \$2,201.00.

This item is agreed to.

Item 15—Penitentiary Lot, New Hospital Building, etc., \$13,947.48.

This item is made up of items for the erection of buildings, completing improvements, "enlargement and improvements," and installation of a water supply, and is disallowed.

ALTERNATIVE FINDING.

I find in the alternative, at the request of the plaintiff, that the Commonwealth expended, within the time prescribed, the sum of \$13,947.48 for the erection of buildings, completing improvements and installation of water supply, the items of which appear on Rec. 529 Joint Ex. D-1, p. 13.

Item 16—Calling out militia at Wheeling in 1836, \$1,099.

The militia appear to have been called out under the provisions of the Militia Law, and an Act was passed in 1838 (App., p. 222) giving them the "usual pay of the militia when in actual service." For the reasons hereafter given in connection with the Harpers Ferry Item, this item is allowed as an ordinary expense.

Item 17—Medical College of Virginia, additions and improvements to buildings, \$25,000.

This was expended for enlarging the hospital and infirmary and extending the college buildings and for improvement and extension of the college museum, and was an "enlargement and improvement" (Rec., p. 530, Joint Ex. D-1, p. 14), and is an extraordinary expense and is therefore disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the Commonwealth expended \$25,000 for "enlarging the hospital or infirmary, for extending the college buildings and for improvement and extension of the college museum" within the time prescribed.

Item 18—Attorney General's fees, prosecuting Selden Withers & Company, \$500.

This item stands with an item "Selden Withers & Co. from Miscellaneous, \$9,351.45," which with other items make the aggregate of item "23 Sundry B. P. W. expenses \$36,728.50" (Sup. Ex 10). It is conceded that the Selden Withers & Co. \$9,351.45 was a "part of the expense of selling the bonds of the state." This item of \$500 being of the same character, an advance fee for collecting the Selden Withers & Co. item, for the reasons given under item 5 as to maps for the Board of Public Works, is allowed.

Item 19—Eastern & Western Asylums, \$344,295.57.

All of the items making up this aggregate (found on pp. 531, 532, 533, 534, 535, 536, 537 and 538 of Rec. Joint Ex. D-1, pp. 15, 16, 17, 18, 19, 20, 21 and 22) are for additional buildings and com-

pleting buildings and installing water plants with the exception of an item of \$5,000 (Rec., p. 532; Ex. D-1, p. 16), and \$7,450.01 (Rec., p. 538, Ex. D-1, p. 22) and are therefore in the nature of construction, additions to plant and increase of the investment of the state in the plants and are extraordinary expenses and therefore disallowed.

The item of \$5,000 was expended under the Act of Feb. 14, 1844 (page 16, Chap. 11) which authorized an expenditure of \$5,000 "for the purpose of remodeling and repairing the body of the old building."

Repairing is clearly an ordinary expense. Whether remodeling would be or not would depend upon the character of the work contemplated. The second section of the Act provides:

"that before the repairs mentioned in the preceding section shall be contracted for, etc."

apparently treating "remodeling and repairing" as repairs. As to this item, I think it is reasonable to conclude that the remodeling was in the nature of repairs and that the item is an ordinary expense, and I therefore allow it as such \$5,000.00. The item "support" is admitted \$7,450.01.

With these exceptions the aggregate is disallowed.

The items of \$7,000 on page 532, and \$17,750 on page 533, include repairing among other items. It is impossible to separate the items of repair from the other items and they are disallowed for that reason.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff under this item, that the Commonwealth expended within the time prescribed the aggregate of \$331,845.56, for additional buildings, completing buildings and installing water plants.

Item 20—Gun House at Alexandria.....	\$ 900.00
Item 21—Cannon House, Surrey Co.....	110.00
Item 22—Cannon House for Richmond Artillery.....	1,079.09

These items are all for construction of buildings, the last two by virtue of special acts therefor (App., p. 246) are extraordinary expenses and are disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the Commonwealth expended within the time prescribed for the purposes above indicated in the items 20, 21 and 22, the sum of \$900, \$110 and \$1,079.09, respectively.

Item 23—Sundry Board of Public Works expenses. . . . \$36,728.50

“Supplemental Ex. 10.”

All of the items making up this sum appear to have been legitimate expenses of the Board of Public Works, reasonably and necessarily involved in the discharge of their duties and are therefore, for the reasons above given under Item 5 as to maps for the Board of Public Works, reasonably within the scope of the ordinary expenses of the Board of Public Works, and are to be treated as an ordinary expense of the State and are allowed.

Item 24—Aggregate, \$18,574,747.84.

For the reasons heretofore given this item is allowed as an ordinary expense.

ALTERNATIVE FINDING.

I find in the alternative at the request of the defendant that the Commonwealth expended within the time prescribed for interest on its public debt the sum of \$18,574,747.84.

HARPERS FERRY RAID.

The full amount of the expenditure for the Harpers Ferry Raid by the State of Virginia was the sum of \$255,745.77. \$3,982.12 should be credited to the expenditure of sundry returns, leaving the actual expenditure, \$251,763.65. The question now to be determined is whether that is fairly within the scope of the term “ordinary expenses,” as that term is used in the decree.

The Constitution of the United States recognizes the essential character of the militia (Con. Art. 1, sec. 8, part 15 and 16, Code of Va., 1860, p. 17). The Virginia Bill of Rights declares that a "well regulated militia * * * is the proper natural and safe defense of a free state." (Code Va., 1860, p. 34, sec. 13.) Virginia has had an active and expensive militia established since 1705 (do. 134 note). The Governor is authorized to "call forth the militia" when any

"combination whether for dismembering the State or establishing in any part of it a separate government, or for any other purpose shall become so powerful as to obstruct in any part of this state the due execution of the laws thereof."

(Code Va., 1860, page 118, sec. 2.)

Under the title head of "Public Defense" is found most extensive, detailed, and comprehensive statutory provisions providing for its organization, maintenance and control, occupying 45 pages of the statutes. (Code Va., 1860, page 134).

It provides for salaried officers (do. 142, sec. 27). For pay of certain officers (do. 148, sec. 8). For annual muster (do. 147, sec. 4); two trainings annually for "the officers of each County" (do. 147, sec. 4). For cavalry and artillery (do. page 151, sec. 11). "In case of any invasion or insurrection within the limits of any division * * * the commandant of such division" has power "to order out for the defense of the State the militia or any part thereof" (do. 161, sec. 1). "The officers and soldiers when called into the actual service of the State shall be entitled to the same camp equipage, pay, subsistence, forage and other emoluments to which similar officers and soldiers are entitled in the service of the United States." (do. page 164, sec. 14.)

The expense of this establishment was large, and the amount \$1,030,594.11 is admitted to be an "ordinary expense."

It is clear that the militia is organized and maintained not for continuous active service but only that from time to time as occasion may require it may be called into "actual service." It is maintained for the express purpose of meeting exigencies the nature of which cannot be specifically foreseen. The possibility of the occurrence of the exigency is all that can justify the existence of the militia establishment. If the expense of maintaining the militia in

order that a State may be prepared to meet the exigency when the occasion arises is an "ordinary expense," it is difficult to see why the expense involved in meeting the exigency itself, thus provided for, the accomplishing of the sole purpose of the militia, is not also within the fair scope of an "ordinary expense." It is a legitimate part of the whole expense of the militia establishment. Its expenses should be treated as a whole. That the appropriations were made "for the defense of the Commonwealth" has no significance as showing that they were unusual or extraordinary. This language was no doubt used, not for the purpose of indicating that the Harpers Ferry Raid was unusual or extraordinary and beyond the scope of the militia's duties, but for the purpose of referring the appropriation to that branch of the public service which the legislature had technically designated the "Public Defense." That the Harpers Ferry Raid was signalized by important and far reaching consequences without precedent in the history of the State, and impossible of duplication, does not differentiate it from other, and less significant exigencies, that may have occurred or that might be expected to occur. It is not the cause, but the result of the exigency, which obstructs "in any part of this State the due execution of the laws thereof," and that "renders it necessary to invoke the militia." The Harpers Ferry Raid, was then, an exigency which might ordinarily occur, which was clearly within the contemplation of the legislature when it created and maintained the militia, one of the specific things for which the annual expenditures were made, and I think it is for these reasons, within the fair meaning of the decree an "ordinary expense," and the sum of \$251,763.65 is therefore allowed as such.

PRIMARY SCHOOLS.

The amount expended on account of primary schools was \$3,056,239.84 (Rec. p. 538-H). Of this amount thus expended, the defendant admits that the sum of \$655,908.73 stated by them as "paid from capitation tax" is an ordinary expense and should be so charged. They deny that the balance of \$2,400,331.11 is so chargeable for the reason that it was derived from other sources than the capitation tax or "on account of the source from which it was derived" (Rec. p. 515-D-1, p. 1; 538 H. Deft.'s Ex. D-2, p. 7).

The "Literary Fund" from which these expenditures were made came from three sources; First,

"all money, stocks or other property which now or hereafter may belong to the Literary Fund" (App., p. 207);

Second,

"Whatever shall accrue to the State from escheats, forfeitures or fines (except militia fines) from the estate of a decedent of which there is no other distributee or from **any other property** or derelict and having no other owner" (Code Va. 1849—App., p. 207).

Third, The auditor of public accounts was required by law to

"set apart and pay into the Treasury to the credit of the Literary Fund for the purposes of education in primary and free schools, the *amount* of the capitation tax for the preceding year" (Act, March 25, 1853, App., p. 208).

From the fund thus created there was expended, \$45,000.; \$70,000., \$75,000 and \$80,000 annually (Code Va. 1860, pp. 416-7 note.)

I have already held, under a preceding paragraph, that an expenditure for this purpose was an ordinary expense, and not an "expenditure." It is conceded that as to \$655,908.73, that conclusion is correct, because it was "paid from the capitation tax."

I find nothing in the legislation or in the decree that sustains this distinction. The sum of \$655,908.73 was not "paid from the capitation tax." Under the express provision of the Statute, the capitation tax was paid "into the Treasury to the credit of the Literary Fund", and when it arrived in the Treasury it was mingled with all the other funds that were the property of the "Literary Fund." It is only the *amount* of the capitation tax that is paid out of the Treasury for the purposes of education. There are no earmarks upon the capitation tax by which it can be traced into the Treasury, and then out of the Treasury, as a disbursement for educational purposes. The provision as to the capitation tax is not an appropriation of the tax *per se*, but is simply a provision on the part of the state determining the minimum amount that shall be contributed

annually from the revenues raised by taxation to the Literary Fund, to supplement the first and second sources of income. The amount to be spent "for the purpose of education" was by no means limited to the "amount of the capitation tax." It exceeded it by the amount of \$2,400,331.11. These three sources of income when they reached the Treasury constituted a common fund known as the "Literary Fund." Out of that common fund all of the disbursements were made for the purposes of education. The decree does not authorize me to inquire into the source from which the money reached the Treasury, and determine the amount of the ordinary expenses, expended from this fund, by the amount of any particular source, from which the fund derived its revenue. If one dollar expended for primary schools from the "Literary Fund" made up from these various contributions, is an ordinary expense, I can see no reason why every dollar coming from the same fund, and expended for the same purpose, is not also an "ordinary expense."

I therefore find that the sum of \$3,056,239.84 is an ordinary expense. In as much as the sum of \$655,908.73 has already been included among the items which make up \$18,207,684.29, there is to be added to it in order to charge \$3,056,239.84 as an ordinary expense the difference between that sum and \$655,908.73 or \$2,400,331.11.

ALTERNATIVE FINDING.

I find at the request of the defendant, as an alternative finding, that the amount of the capitation tax during the period in which the sum of \$3,056,239.84 was expended for schools was \$655,908.73.

SURVEYS.

I have already held under Paragraph III, that the sum of \$106,983.67 expended for surveys by the Board of Public Works was general in its character, and should be charged as an ordinary expense and the item is here so charged \$106,983.67.

SUMMARY ORDINARY EXPENSES.

The amount agreed upon between the parties,	
is	\$18,207,684.29
1. Tobacco receipts	\$353,123.96

3.	Slaves transported and executed.....	\$311,165.35
5.	Maps, Board of Public Works.....	\$11,446.48
7.	International Exchanges	\$2,836.19
9.	Printing Treasury Notes.....	\$375.74
13.	Improvements in public square.....	\$1,456.91
14.	Fugitive slave expense; reward additional....	\$2,201.00
16.	Calling out militia at Wheeling in 1836.....	\$1,099.00
18.	Atty.-Genl.'s fees prosecuting Selden, Withers & Co. claim	\$500.00
19.	Remodeling and repairing old building of Eastern Asylum	\$5,000.00
	Support Western Asylum.....	\$7,450.01
23.	Sundry Board of Public Works expenses.....	\$36,728.50
24.	Interest on public debt.....	\$18,574,747.84
	Expenses of Harper's Ferry Raid.....	\$251,763.65
	Expended for primary schools.....	\$2,400,331.11
	General expenses connected with surveys.....	\$106,983.67
		\$40,274,896.70

SUMMARY ALTERNATIVE FINDINGS.

1.	At the request of the defendant that the Commonwealth received from Tobacco Receipts..	\$353,123.96
2.	At the request of the plaintiff, that the Commonwealth expended for two Constitutional Conventions, held in 1829 and 1850.....	\$258,906.28
4.	At the request of the plaintiff, that under the acts of the legislature above referred to, the Commonwealth expended in running boundary lines	\$16,704.78
5.	At the request of the plaintiff, that the Commonwealth expended under acts of the legislature for maps.....	\$16,628.04
6.	At the request of the plaintiff, that the Commonwealth expended in original construction and other additions to or increase of the	

plant of the Deaf, Dumb and Blind Institution, the details of which are on pp. 5, 6 and 7 of Joint Ex. D-1.....		\$80,661.94
8.	At the request of the plaintiff that the Commonwealth overpaid on Treasury notes.....	\$50.00
At the request of the plaintiff that the Commonwealth lost on account of counterfeit money		\$190.00
11.	At the request of the plaintiff, that the Commonwealth expended in the erection of buildings and additions thereto and installation of heating and lighting plants connected with the Va. Military Institute.....	\$151,000.00
12.	At the request of the plaintiff, that the Commonwealth expended in "repairing and improving the buildings and furnishing a supply of water for the protection and preservation" of buildings &c. of the University of Virginia	\$25,000.00
13.	At the request of the plaintiff, that the Commonwealth expended for Improvements to Capitol Square, the sum of.....	\$12,278.47
15.	At the request of the plaintiff, that the Commonwealth expended on additions to Penitentiary lot, New Hospital Buildings, etc...	\$13,947.48
17.	At the request of the plaintiff, that the Commonwealth expended for "enlarging the hospital and infirmary and extending the college buildings, and for improvement and extension of the College museum" of the Medical College of Virginia.....	\$25,000.
19.	At the request of the plaintiff, that the Commonwealth expended on the Eastern & West-	

ern Asylums for items appearing on pages 531 to 538 incl.—Joint Ex. D-1, pp. 15 to 22 incl.		\$331,845.56
20.	At the request of the plaintiff, that the Commonwealth expended for Gun House at Alexandria	\$900.00
21.	At the request of the plaintiff, that the Commonwealth expended for Cannon House, Surrey County	\$110.00
22.	At the request of the plaintiff, that the Commonwealth expended for Cannon House for Richmond Artillery	\$1,079.09
23.	At the request of defendant, that the Commonwealth expended for expenses of the B. P. W.	\$36,728.50
24.	At the request of defendant that the Commonwealth expended for interest on its public debt	\$18,574.747.84

I find in the alternative at the request of the plaintiff, that the amount of the ordinary expenses and the apportionment thereof, according to the claims of the plaintiff, are correctly stated on pages 515 and 516 of the Record.

DIVISION OF ORDINARY EXPENSES OF GOVERNMENT BY DECADES.

	Total.	1st Decade Ending Dec. 30th, 1830.	2d Decade Ending Sept. 30th, 1840.	3d Decade Ending Sept. 30th, 1850.	4th Decade Ending Sept. 30th, 1860.
Agreed Amount-----	{ \$18,207,684.29 }	\$ 2,902,808.21	\$ 3,975,260.33	\$ 4,514,816.97	\$ 6,158,845.05
Schools-----	2,400,331.11	330,054.08	568,328.36	715,190.24	{ 655,908.73 }
Tobacco Receipts-----	353,123.96	71,950.84	50,246.78	62,703.07	786,758.43 }
Slaves Transported and Executed-----	311,168.35	41,491.54	53,488.95	49,497.28	168,223.27
Maps (Board of Public Works)-----	11,446.48	4,428.79		1,500.	166,690.58
International Exchanges-----	2,836.19			550.	5,517.69
Printing Treasury Notes-----	375.74				2,286.19
Improvements to Public Square-----	1,456.91	1,456.91			375.74
Fugitive Slave Expense-----	2,201.				2,201.
Militia—Wheeling, 1838-----	1,099.		1,099.		500.
Attorney General's Fees-----	500.			5,000.	
Eastern Lunatic Asylum—Repairs-----	7,550.01		7,550.01		
Western Lunatic Asylum—Support-----	36,728.50	64.50	1,579.87	1,689.92	33,385.21
Board of Public Works—Expense-----	18,574,747.84	274,278.17	1,146,146.43	3,682,978.86	13,471,344.38
Interest on Public Debt-----	251,763.65				251,763.65
Harpers Ferry Raid-----	106,983.67	42,046.76	49,450.09	14,818.09	668.73
Surveys-----					
	\$ 40,274,896.70	\$ 3,668,579.80	\$ 5,853,049.82	\$ 9,048,798.43	\$21,704,468.65

DIVISION OF ORDINARY EXPENSES OF GOVERNMENT BY PLAINTIFF'S

METHOD AS SHOWN IN JOINT EXHIBIT D-1, PAGES 2-3.

ORDINARY EXPENSES DIVIDED BY DECADES.

Mar. 19, 1823, to Sept. 30, 1830	\$3,668,579.80
Oct. 1, 1830, to Sept. 30, 1840	5,853,049.82
Oct. 1, 1840, to Sept. 30, 1850	9,048,798.43
Oct. 1, 1850, to Dec. 31, 1860	21,704,468.65
	<u>\$40,274,896.70</u>

DIVIDED ON BASIS OF AVERAGE TOTAL POPULATION *INCLUDING* SLAVES.

1st Decade—Virginia	85.9789%	\$3,154,204.56	
West Virginia	14.0211%		514,375.24
2d Decade—Virginia	83.6218%	4,894,425.61	
West Virginia	16.3782%		958,624.21
3d Decade—Virginia	80.2045%	7,257,543.54	
West Virginia	19.7955%		1,791,254.89
4th Decade—Virginia	77.5014%	16,821,267.07	
West Virginia	22.4986%		4,883,201.58
Total Virginia		\$32,127,440.78	
Total West Virginia			\$8,147,455.92
Grand Total as above			<u>\$40,274,896.70</u>

DIVIDED ON BASIS OF AVERAGE TOTAL POPULATION *EXCLUDING* SLAVES.

1st Decade—Virginia	79.3334%	\$2,910,409.09	
West Virginia	20.6666%		758,170.71
2d Decade—Virginia	76.1625%	4,457,829.07	
West Virginia	23.8375%		1,395,220.75
3d Decade—Virginia	71.9611%	6,511,614.89	
West Virginia	28.0389%		2,537,183.54
4th Decade—Virginia	68.8438%	14,942,180.99	
West Virginia	31.1562%		6,762,287.66
Total Virginia		\$28,822,034.04	
Total West Virginia		\$11,452,862.66	
Grand Total as above			<u>\$40,274,896.70</u>

DIVISION OF ORDINARY EXPENSES OF GOVERNMENT BY DEFENDANT'S

METHOD AS SHOWN IN JOINT EXHIBIT D-1, PAGE 4.

Total Ordinary Expenses to be Divided	<u>\$40,274,896.70</u>
---------------------------------------	------------------------

DIVIDED ON BASIS OF TOTAL AVERAGE POPULATION *WITH*
SLAVES.

Virginia	-----81.3718%	\$32,772,408.39
West Virginia	-----18.6282%	7,502,488.31

DIVIDEND ON BASIS OF TOTAL AVERAGE POPULATION *WITHOUT*
SLAVES.

Virginia	-----73.3369%	\$29,536,360.72
West Virginia	-----26.6631%	10,738,535.98

I find that the method adopted by the plaintiff of, ascertaining "the average total population", is the closest and most accurate approximation upon which the ordinary expenses can be apportioned to "the average total population," as the object to be ascertained, is the population in existence, at the time the ordinary expenses to be apportioned, were paid, and I therefore adopt the plaintiff's method.

PARAGRAPH V OF DECREE.

5. "AND ALSO ON THE BASIS OF THE FAIR ESTIMATED VALUATION OF THE PROPERTY, REAL AND PERSONAL, BY COUNTIES, OF THE STATE OF VIRGINIA."

This paragraph is clearly in the alternative with the last clause of Paragraph IV. That paragraph requires "such proportion of the ordinary expenses * * * on the basis of the total average population," and Paragraph V. "*Also* on the basis of the fair estimated valuation," two alternatives, each predicated upon the same "ordinary expenses." How any proportion of the ordinary expenses can be predicated upon a valuation that is not coterminous with the "ordinary expenses" but taken two and a half years later under a profound change in conditions, affecting the amount of that valuation, can serve any useful purpose in apportioning such "ordinary expenses" it is difficult to see. If an ordinary expense is a charge upon valuation, it can only be a charge upon the valuation in existence at the time the "ordinary expense" is incurred, and not upon another and entirely different valuation at a later period. The case has, however, been tried upon the hypothesis that the "fair estimated valuation," is as of June 20, 1863, and while I think January 1, 1861 is the true date, I will first find the fair estimated valuation on June 20, 1863. Both parties start with the assessed valuation of real estate made in 1856, and which it was provided by Acts passed March 27, 1862 and March 28, 1863 "shall be permanent and not be changed" for those years respectively (App., p. 133). The taxes were assessed as of February 1 (Code of Va. 1860, p. 197, sec. 48) (Acts Gen. Assembly, 1863, Chap. 1, p. 1). The rate of assessment in '61 (See Plff. Ex. H-1) was at the rate of forty cents on a hundred. The Act of 1863 increased the rate of taxation to 100 cents on a hundred and generally, one hundred and fifty per cent. The Act of 1862 contained no provisions as to changing the assessment of real estate. The Act of 1863, sec. 91, provided that

"as many tracts of land and lots with improvements thereon situate in counties invaded by the public enemy have been permanently diminished in value by said invasion and despoiled and reduced in value by military occupation and by the waste and violence incident to war, it shall be the duty of the Com-

missioners of the Revenue for such counties upon the requisition of the owner of any real property situate in such counties or of his agent to make a new assessment of such real property upon the following basis and mode of valuation, viz.: The commissioner shall deduct from the amount at which such property stands assessed at its last assessment such sum as is equal to a fair estimate of the permanent diminution in the value thereof caused by the invasion of such county and of the permanent injury and damage inflicted upon such property by military occupation thereof and the waste and violence incident to war" (App., pp. 133-4).

and then follows a provision that the

"permanent dimunition, injury and damage"

should be measured by the "standard and rate of valuation" as if it had "been estimated during the year 1856," the remainder to be the valuation to be assessed. The change of valuation could be made only "upon the requisition of the owner." The defendant claims that it is to be presumed that the owner made the application where there was any diminuation in value for that cause and that as to the counties actually subjected to "military occupation" the presumption is that the assessors valuation for 1863 represents the actual value after these proceedings had been had. The law provided also for adding to or taking from the assessment on the addition or loss of buildings (Code of Va. 1860, chap. 35, secs. 31, 32, 33 & 34, pp. 193-4). Nothing appeared in the case to indicate that any requisitions had been made by owners for a reduction in value under the provisions of Sec. 91. If there is a presumption that the requisitions were made and the values were correspondingly reduced under the provisions of this section, that presumption is overcome by the fact that the valuation of real estate for 1863, was \$378,534,712.35 (Rec. p. 639—Ex. E-1, p. 1) as against a valuation for 1861 \$317,330,219.26 (Plffs. Ex. H-1, p. 647), and valuation for 1860 of, \$377,947,112 (do).

It will be seen that the valuations for 1863 and 1860 are substantially the same. While the valuation for '63 exceeds that given for 1861, it should be noted that quite a number of counties were omitted in 1861 which were valued in 1863 at about \$36,000,000 which added to \$317,330,229.26 would make an aggregate of \$353,330,229.36, so

that the valuation of real estate in 1863 instead of being reduced as it inevitably would have been if there had been any diminution on the requisition of the owners, shows substantially the same value as in 1860 and an increase over 1861.

The assessments as stated in the schedules for Virginia and West Virginia stand therefore unaffected by any of the considerations growing out of the war conditions on June 20, 1863, and are practically the assessments of 1856.

The plaintiff claims that because of the fact that the real estate was within the limits of the Confederacy, whose territory was to a large extent the theatre of active war, occupied by contending armies, had been ravaged and in part destroyed, with agriculture and manufactures practically paralyzed, there was a depreciation of its value by at least fifty per cent. in all of Virginia and the same in the counties of Berkeley, Greenbrier, Hampshire, Hardy, Jefferson, Mercer, Monroe, Morgan, Pendleton and Pocahontas in West Virginia (Rec., p. 640, Ex. E-1, p. 2).

If this contention is sustained the "fair estimated valuation of the real property of Virginia" would be \$148,042,730.15; and in West Virginia, \$67,767,127.44. To establish this, they rely upon the general presumption that a marked decrease in value would result from the war conditions, the opinions of witnesses and the sale of different parcels of real estate.

My attention has been called to cases tending to show that the assessments are admissible as tending to show the value of real and personal property at the time of the assessment. Inasmuch as each party relies upon the assessment as the basis of their respective valuations, and there is no other evidence in the case, and no other is probably obtainable, that tends to show the value of the real and personal property as a whole at the time in question, I shall treat the assessments as one of the competent elements for the purpose of determining the fair estimated valuation.

The defendant contends that Virginia is estopped from denying that the assessed valuation in 1863 is the "fair estimated valuation" and rely upon *State v. Turnpike Co.*, 22 Tenn. (3 Humphrey), 305, and *State v. Hamilton*, 30 Tenn. (11 Humphrey), 47, which hold that the analogy between the agent of the state employed to "transact its ordinary business and operations" is complete between that of an agent of an individual person, acting through his agent, and the state is equally bound thereby. *State v. Crutcher*, 32 Tenn., 504, 515, is to the same effect except as an additional reason for hold-

ing that the settlement involved in that case bound the state, it appeared that it had "received the approval of the legislature."

As to these cases it is to be said that the assessors assessing property are not acting as agents of that character. As is said in *Stanley v. Board of Supervisors*, 121 U. S., 535, also cited by the defendant, "their action is judicial in its character."

11 *Amer. & Eng. Ency. of Law*, 2nd Ed., 396, and cases cited, is relied upon as establishing the doctrine that a state may be estopped by its covenants in a deed.

The cases all proceed upon the theory that as to the deed or grant, the state acts in its private capacity, and is therefore governed by the same rules that apply under the same circumstances to private individuals, a state of facts that does not obtain at bar, as there is no deed or grant here, and there is no action by the state in its private character and no ground for an estoppel. Cases like *Stanley v. Board of Supervisors*, 121 U. S. 535, are cited for the purpose of showing that the assessment cannot be attacked collaterally by a tax payer, but this is not a case of a tax payer contesting either the validity or the amount of the tax assessed, and those cases proceed upon the ground that remedies are provided by statute for the tax payers. Moreover, in that case the Court held that the valuation fixed, was not conclusive even as against the tax payer, as while they hold that the tax could not be attacked collaterally, they also hold that

"when the over-valuation of property has arisen from the adoption of a rule of appraisement which conflicts with a constitutional or statutory direction and operates unequally not merely on a single individual but on a large class of individuals or corporations, a party aggrieved may resort to a Court of equity to restrain the exaction of the excess, upon payment or tender of what is admitted to be due" (pp. 550-1).

While insisting upon the position that the assessed valuation is conclusive upon Virginia, defendant calls my attention to cases, which it is contended, require me to take judicial notice that these valuations "are far below the market value of the property assessed".

In *State v. Savage*, 91 N. W. 716, 720, acting upon an assessment, the Court took judicial notice that it was "notorious" that the

assessment was at only twenty to ten per cent of the value of the property.

In *Railroad & Tel. Cos. v. Board of Equalizers*, 85 F. R. 302, the Court said, if it "may judicially know an established custom" real property was assessed "at a rate not exceeding 75 per cent. of actual value" (p. 310). And the Court also said:

"It is a matter of familiar and common knowledge with every citizen of the State [Tennessee] that ordinary real property is assessed for general taxation at a percentage ranging from 50 to 75 per cent. of actual value" (p. 308).

The Court cited *Railway v. Guenther*, 19 F. R. 395 where in speaking on the same subject, the Court said:

"But from the other proof in the cause and from what the Court may judicially know"

the assessments were

"one-fourth below their real value" (p. 399).

The Court in that case also cited *Board of Supervisors of Bureau County v. Chicago B. & Q. R. R. Co.*, 44 Ill. 229 where the Court said:

"It is an admitted fact on both sides of this controversy that the property of no one owner in the County of Bureau has been taxed on its real value" (p. 239).

In that case it appeared that

"property of individuals ranged from one-fifth to one-third of of its cash value" (p. 237).

These facts appeared by proof and were not a matter of judicial notice.

In *Cummings v. National Bank*, 101 U. S. 153, also cited in the opinion, the Court said:

"But it is a matter of common observation that in the valuation of real estate this rule is habitually disregarded" (p. 162).

The Court had already decided the case and it appeared "by the testimony of four or five assessors" that they had established a rule by which real and personal property was assessed at one-third of its actual value. The remark made by the Court was unnecessary to the decision, general in its character and expressly declared to be in "extenuation" of the practice thus disclosed to obtain in Ohio. The Court further said for the same purpose,

"it is believed that the valuation of real estate for the purpose of taxation rarely exceeds half of its current salable value" (p. 163).

It is not believed that the Court in using this general language by way of illustration, as a dictum, were laying down a legal rule for determining the value of real estate, and authorizing the Court by judicial notice to make a reduction from its assessed value.

These cases may perhaps be sustained upon the theory that

"Courts may properly take judicial notice of facts that may be regarded as forming part of the common knowledge of every person of ordinary understanding and intelligence" (Cyc., Vol. 16, p. 852).

and the fact that the judicial notice is confined to the particular states under discussion.

I am not advised whether it is ten, twenty, thirty-three and a third, fifty or seventy-five per cent. of the valuation that I am expected to assume as a matter of judicial knowledge. If I am asked to hold that there is a universal custom, prevailing everywhere, to undervalue real estate for the purpose of taxation, I should not feel at liberty to so hold, for I know the contrary to be true. I know localities where the full value is intended to be assessed. There is no evidence in this case by which it could be inferred that any custom to undervalue prevailed in Virginia in 1856 or in 1863. If an undervaluation was a part of the common knowledge of every person of ordinary understanding at that time, nothing appeared in the record to indicate it, and I do not feel at liberty to assume it. The Act under which the assessment was made required the assessors to "examine all the lands and the lots with the improvements thereon * * * ascertain and assess the actual value thereof" (Sec. 4, Act. Mar. 10, 1856, p. 17). By Section 5, the Courts had the power to

“reduce the same to what is in their opinion the true value of such lands or lots,”

and if too low, “they shall increase it in like manner”.

The defendant contends in connection with these assessments that

“It is a well settled principle that the law contemplates or presumes that all public officers in the discharge of their duties have acted according to the requirements of the law and have done all things which the law requires they shall do,”

and cites authorities which amply sustain that proposition. Such being the rule, when applied to this assessment it follows that in fixing the value of the real estate in 1856 the assessors fixed the “cash value thereof”.

The defendants were requested to submit authorities upon the competency of the opinions of witnesses and actual sales upon the question of values on June 20, 1863. Having submitted none, I assume that they do not contend that upon the authorities evidence of that character is inadmissible. The evidence is objected to on the ground that its effect is to impeach the judgment of the revenue officers, and it is claimed that their judgment is thus being collaterally attacked. No question of taxation is involved here. The only question is what is a “fair valuation and assessment made in 1856” is the starting point in ascertaining the valuation on June 20, 1863.

The theory of the plaintiff involves the assumption that the assessment in 1856 was the true value at that time. It is their basis. That pronounced changes in value, especially in view of war conditions, may have occurred up to June 20, 1863, is too obvious for discussion.

The opinions of witnesses, sales, and conditions in 1863, and the use sought to be made of such evidence on the part of the plaintiff does not only fail to contradict, impeach or collaterally attack, but proceeds upon the assumption, that the action of the assessors is to stand, as the basis of the valuation.

It seems inevitable, that the existence of the war and its continuance from 1861 to June 20, 1863, the presence of the contending armies and the condition of destruction and devastation necessarily incident thereto, produced a marked diminution in the value of the real estate within the limits of the Confederacy.

The difficult question is, how much was the depreciation? Upon this point the evidence is very fragmentary, indefinite and unsatisfactory, but it is all there is in the case from which that can be ascertained. The plaintiff shows thirty sales of real estate in the territory in question during the months of April, June, July and August, 1863 (Rec. 64-5-6-7-8). These sales were all undoubtedly in Confederate money, as it does not appear to be seriously controverted that all transactions in the Confederacy at that time were in Confederate money. Reduced to a gold basis they show an average depreciation from the assessed value of 62.90 per cent.

J. M. McWhorter, a witness for the defendant says that "there was depreciation. People were ready to dispose of their property and turn it into money" (Rec., p. 715). It was on account of the raids of Confederate armies (Rec., pp. 715-716). He testifies only as to Roane and Jackson Counties (Rec., p. 717) and makes no estimate as to the amount of the depreciation in those Counties.

Ex-Governor Atkinson, also a witness for defendant, was in Kanawha, Fayette, Nicholas, Greenbrier, Jackson, Roane, Putnam and Mason counties, more or less of which, were overrun at times by both armies (Rec., p. 787). He says

"It necessarily materially reduced the values of all kinds of property all through this region of the country" (Rec., p. 788).

From shortly after September, 1862, until the close of the war the Federal forces occupied the great Kanawha valley (Rec., pp. 787 and 790). The counties above referred to were largely situated in this valley. He had no doubt but that

"property values did increase in the upper part of the State to some extent during the period of the War, which part was not burdened by soldiers of either side; but for the Southern portion of the State, I cannot believe, taking the whole period of the War, that the valuation of personal property and real estate increased at all" (Rec., pp. 794-5).

He says "that in the whole Southern tier of counties" real estate "did materially depreciate" (Rec., p. 795). He expresses no opinion as to the percentage of increase on the one hand or decrease on the other.

The counties that plaintiff concedes should have their values re-

duced are the whole Southern tier of Counties (Rec., p. 640, Ex. E-1, p. 2) and the counties as to which Mr. McWhorter and Mr. Atkinson testify are such as were substantially in the great Kanawha Valley that was under Federal control shortly after September, 1862, until the close of the War.

This is in substance the evidence upon the part of the defendant bearing directly upon the question of value.

The plaintiff relies upon a number of witnesses who appear to have some opportunity to know of the conditions in a great deal of the territory in Virginia that was the subject of military occupation. They all agree that great damage was done and that there was great deterioration in value. (Hunter, 741; Scott, 748; Branch, 754; Wellford, 761; Taylor, 769; Hawes, 772; Williams, 778; McCabe, 783-4).

Hunter says that it:

“is almost entirely a matter of conjecture, but I should suppose it would be fair—of course I just hazard this—to state that the values were destroyed one-half at least, taking the whole State at large” (Rec., p. 742).

He says it was “impossible to base any satisfactory judgment as to values” (Rec., p. 742). In answer to the question as to whether real estate was worth “less than one-half,” Scott says, “Undoubtedly in gold values” (Rec., p. 742).

Branch says:

“I don’t consider that I know enough to express an opinion in regard to real estate. It was very much depreciated * * * I am satisfied (though I am not speaking of any sale I now remember) that it depreciated fully one-half” (Rec., pp. 756-7).

Wellford—reducing Confederate money to gold, says the value was not “over-one-half” as before the War (Rec., p. 763).

Taylor—Fifty to Sixty per cent. depreciation (Rec., p. 770).

Hawes—Depreciation, fifty per cent. (Rec., p. 779).

Williams—Average lands in Virginia were not worth 25 per cent. in 1863 in good money (Rec., p. 779).

McCabe expresses no opinion as to the amount of depreciation.

Indefinite, uncertain and unsatisfactory as these statements are, the defendants though examining its witnesses upon the same general subject after this testimony was taken, made no effort to contradict their statements or opinions. This, with the sales, is all the evidence there is, and it is perhaps true that at this late day, nothing more satisfactory could be obtained. Taking it with the presumption of the great decrease in value resulting from the War conditions, I think the estimate made by the plaintiff is as close and approximate as can be reasonably made of the fair estimated value of the real estate on the 20th day of June, 1863, and I therefore find that the fair estimated valuation of the real estate in the counties in Virginia on that day was, \$148,042,730.15. The plaintiff concedes that the same reduction should be made in the Southern tier of ten counties of West Virginia. I find the value of the real estate in said counties to be \$14,773,124.60.

There is no evidence that taking West Virginia as a whole there was any decrease in its value. While Ex-Governor Atkinson says, that in the upper part of the State "Values had increased to some extent," and that

"but for the Southern portion of the State, I cannot believe, taking the whole period of the War, that the valuation of personal property and real estate increased at all. On the contrary, I am quite confident that it did not do so" (Rec., p. 795).

He afterwards said that in the southern tier of counties it materially depreciated. He expresses no opinion upon the question of depreciation of the state as a whole. His statement as to the increase of value of the upper part of the State has some corroboration in the fact that agriculture was carried on in that section at a handsome profit in 1863 and 1864 (Rec., p. 798).

The same reduction having been made in the Southern tier of ten counties on account of the War conditions that has been made upon the real estate in Virginia, I think it reasonable to take the assessed valuation in West Virginia for the remaining counties without making any addition for any increase in value "in the upper part of the State" as the fair estimated value of the real estate in those counties on June 20, 1863.

And I therefore find that the fair estimated value of that portion of West Virginia was \$52,903,002.84, which added to the valuations

fixed upon the Southern tier of counties makes the aggregate of the fair estimated value of the real estate in the Counties of West Virginia the sum of, \$67,676,127.44.

ALTERNATIVE FINDING.

I find in the alternative at the request of the defendant that the assessed valuation of the real estate in the counties constituting the State of Virginia on June 20, 1863, was \$296,085,460.31 and that the assessed valuation of the real estate in the counties constituting West Virginia was \$82,449,252.04.

PERSONAL PROPERTY.

The total valuation of personal property including slaves and not including income in the counties of Virginia, was, according to the last obtainable assessment prior to June 20, 1863 (Rec., p. 639, Ex. E-1, p. 1), \$403,696,228.59. The same valuation for the counties in West Virginia was \$30,394,487.21 (do.).

The witnesses all agree that there was a great diminution in quantity of stock of all kinds and provisions as compared with 1860 and 1861.

Hunter says: "Very largely; very largely" (Rec., p. 743).

Scott says: "Personal property of all sorts had become so scarce that by reason of its scarcity it had a fictitious value, almost in Confederate money. There was not any horses to spare left, very few cows, very little furniture, very few farming utensils and very little live stock."

"There was ten times as much personal property in 1861 as there was in 1863" (Rec., p. 749).

The value of horses was much more in 1863 (Rec., p. 750).

Branch says: other personal property had depreciated fifty per cent. (Rec., p. 757).

Wellford: "Immense diminution in the quantity" of personal property (Rec., p. 763). Hogs made into bacon, and horses, were worth more. He says that Lincoln's Proclamation had "very little effect" upon the value of slaves "until the surrender of Vicksburg and Gettysburg. It was laughed at and ridiculed by most people" (do., p. 763). Leaving out cotton and tobacco, personal property

depreciated 75 per cent. Carriages and wagons and farming utensile were pretty well worn out (do., p. 764). Nearly one-half of the horses and cattle were gone (do., p. 765).

Taylor—Depreciation 50 to 75 per cent. (do., p. 769) “except such things as were absolutely in demand like horses, provisions and things that you would have to have” (do., p. 769).

Hawes—Live stock and poultry were swept off. (do., p. 772). Amount carried off large (do., p. 774).

Williams—Depreciation was less than fifty per cent. (do., p. 779).

McCabe—Live stock was swept away (do., p. 785).

While these statements as to the amount of personal property destroyed are probably somewhat exaggerated I have no doubt there was a marked reduction in quantity, and an abnormal increase in demand, caused by the presence of the contending armies in large numbers for such personal property as horses, cattle, sheep and hogs which would necessarily tend to largely increase their value. All fowl and animals of every description (except horses, mules, asses, cattle, sheep and hogs), all farming implements actually used for farming purposes and all mechanics’ tools used on any farm or by any person actually engaged in any other occupation or profession were exempt from taxation, and are not included in the aggregate of personal property above given.

The plaintiff claims that the assessment upon which the valuation of personal property is based was made in Confederate money on February 1, 1863, which at that date was at the rate of 4 to 1, and that therefore in order to get the valuation in gold the assessment should be reduced seventy-five per cent. An analysis and comparison of the assessments of 1861 and 1863 does not sustain this contention. For the purpose of making this analysis and comparison I have had prepared an abstract of the personal property assessment for 1863, so far as obtainable from the records, marked “Supplemental Ex. 4”, and a comparison of average assessed valuations marked “Supplemental Ex. 5.” If the assessment of 1863 was made upon the same basis as the assessment of 1861 and there was an increase in the value of horses &c., cattle, sheep and hogs, we should expect to find in the assessment of 1863, a larger average sum assessed on account of such property than was assessed in 1861. If a basis of valuation four times as great as that of 1863 was adopted, we should expect to find a general increase in the value as to all the items included in the assessments, approximating at least, the basis used. In the case of pleasure carriages and other vehicles, the

assessment of 1863 compared with 1861 in six instances at least is less than the assessment of 1861. In case of watches, it was less in two counties, and in case of clocks in ten counties. In the case of pianos and harps, in 19 counties.

In making these comparisons it is to be noted that the valuations in 1861 as a rule are somewhat less than the valuations in 1860. I have not made computations in connection with all of the items in all of the counties, but I have made computations enough to satisfy me that there has been no horizontal increase of the rate of assessment on the basis of four to one.

The largest increase was in connection with the items as to which the greater increase in value was to be expected. In the case of sheep, the greatest increase that I find is 450 per cent. and I find that in only twenty-four counties was there an increase of 300 per cent. or over. In cattle, the largest increase I find is 321 per cent. and I find only three counties in which there was an increase of 300 per cent. or over. The largest increase in the case of hogs was 461 per cent. and I find only nine counties in which there was an increase of 300 per cent. or over. I find that in one county there was an increase in the valuation of clocks of 332 per cent.

The assessment of the various articles of personal property in a number of counties will show that nothing approximating a horizontal increase could have been made in 1863. I have selected for comparison in the following counties, as they show some of the largest increases in valuation and are more favorable to the plaintiff's contention. In Amherst County the increase on horses &c. was 136 per cent.; pleasure carriages, 46 per cent.; cattle, 221 per cent.; sheep 400 per cent.; hogs, 347 per cent.; watches, 99 per cent.; clocks, 16 per cent. pianos and harps, 43 per cent. Fluvanna County, horses 122 per cent.; pleasure carriages, 54 per cent.; cattle 257 per cent.; sheep, 300 per cent.; hogs, 300 per cent.; watches, 55 per cent.; clocks, 29 per cent.; pianos and harps, 55 per cent.

Henrico County—Horses, 79 per cent.; pleasure carriages, 51 per cent.; cattle, 316 per cent.; sheep, 358 per cent.; hogs, 479 per cent.; watches, 58 per cent.; clocks, 63 per cent.; pianos and harps, 40 per cent.

Goochland County—Horses, etc., 105 per cent.; pleasure carriages, 7 per cent.; cattle, 266 per cent.; sheep, 335 per cent.; hogs, 304 per cent.; watches, 56 per cent.; clocks, 7 per cent.; pianos and harps, 10 per cent.

Powhatan County—Horses, etc., 83 per cent.; pleasure carriages,

28 per cent.; cattle, 257 per cent.; sheep, 440 per cent.; hogs, 338 per cent.; watches, 37 per cent.; clocks, 86 per cent.; pianos and harps, 17 per cent.

The average increase per head of these various items of personal property in 1863, compared with 1861, is: Horses, 93 per cent.; pleasure carriages, 30 per cent.; cattle, 140 per cent.; sheep, 228 per cent.; hogs, 164 per cent.; watches, 58 per cent.; clocks, 34 per cent.; pianos and harps, 25 per cent.

Plaintiff says that the counties of Accomac, Alexandria, Northampton, Norfolk City, Norfolk, and Portsmouth "are included in the comparison and that the assessment in those counties was made "at its full value in lawful money of the United States, and not in Confederate currency." Inasmuch as the schedule shows no assessment in Alexandria in 1861, none in Norfolk for 1863, none in Norfolk City for 1861 and 1863, and none in Portsmouth for 1863, those counties standing alone, would not appear to have much value. Alexandria comes nearest to the other counties in amounts assessed and a comparison with its values will show that there could have been no general increase of assessments on the basis of 4 to 1. There are sixteen counties where the value of horses was less than \$100 and three less than \$81.01, the value in Alexandria; viz., Carroll, \$72.43; Highland, \$45.62, and Northumberland, \$79.82. Horses—Alexandria, \$81.01; average for State, \$125.25; Amherst, \$152.49; Fluvanna, \$155.67; Goochland, \$171.69; Henrico, \$146; Powhatan, \$139.06. Carriages—Alexandria, \$103.28; average in State, \$90.28; Amherst, \$116.68; Fluvanna, \$110.31; Goochland, \$91.60; Henrico, \$114.12; Powhatan, \$88.93. Cattle—Alexandria, \$29.50; average in State, \$24.28; Amherst, \$34.89; Fluvanna, \$41.72; Goochland, \$44.16; Henrico, \$71.67; Powhatan, \$33.03. Hogs—Alexandria, \$5.00; average in State, \$5.26; Amherst, \$8.77; Fluvanna, \$8.47; Goochland, \$9.62; Henrico, \$23.16. Watches—Alexandria, \$27.85; average in State, \$51.41; Amherst, \$85.07; Fluvanna, \$53.67; Goochland, \$59.08; Henrico, \$62.81; Clocks—Alexandria, \$3.87; average in State, \$5.64; Amherst, \$6.97; Fluvanna, \$5.76; Goochland, \$6.59; Henrico, \$6.35. Pianos—Alexandria, \$111.41; average in State, \$182.46; Amherst, \$215.59; Fluvanna, \$237.20; Goochland, \$205.96; Henrico, \$181.05.

The marked increases that appear are clearly in connection with the articles that must have necessarily increased in value and very few of those show an increase of 300 per cent.

It is a fair inference from all the testimony that there was an

actual increase in value upon the gold basis of horses, etc., cattle, sheep and hogs. The differences in value are what would naturally be expected from the difference in location and the fact that the values were fixed by different Commissioners. The analysis of the assessments distinctly negatives the idea that there was any change in basis of valuation. If Hawes, who says (Rec., p. 774) that horses would sell for \$400, \$1,000 and \$1,500, and Williams: "A mighty poor horse you could get for \$500" (do., p. 781) are correct, inasmuch as the average assessed value in 1863 for horses was \$125.25, it is impossible that the assessment could have been made in Confederate money on the basis of their actual value. No one having any personal knowledge testified to the assessment having been made in Confederate money.

Plaintiff claims that Taylor and Williams testified that taxes "were assessed in Confederate money." Taylor testified:

"Q. 11. In what kind of money were taxes assessed and paid at that time—in 1863? A. Confederate money" (Rec., p. 768.)

Williams testified:

"Q. 1. In 1863 what was the currency of the country here, the currency in which taxes were assessed and paid and transaction of all kinds had? A. The only currency in use was Confederate Treasury notes and State Bank notes,"

and the rest of the answer makes no reference to the assessment.

"Q. 2. What currency was the measure of value in 1863? A. Confederate currency. The bank notes were for a long time at a premium but they became finally as worthless as Confederate money" (Rec., p. 781).

He does not state when they were at a premium or when they became worthless. Neither of these witnesses were assessors and it does not appear that they had any personal knowledge, or how they derived such information as they have. It is not contended that real estate was assessed in Confederate money. The testimony of the witnesses covers all taxes and must be incorrect as to real estate. It may be it was intended to ask them as to personal property, but

the question was not so asked or answered. It is true that all taxes were "paid" in Confederate money when the law in force shortly after the time of the assessment, Feb. 1, 1863 did not authorize the payment of taxes of less than five dollars in Confederate money?

I do not question the honesty or sincerity of the witnesses, but the judicial action of the assessors at the time would seem to be the better criterion of value.

The inference of assessment in Confederate money is sought to be drawn from the fact that the taxes were payable in Confederate money, and that business transactions were in Confederate money.

The Act of March 22, 1862 (Acts 1862, p. 32: App. p. 132), made Confederate notes receivable for taxes without any limit. The Act of March 28, 1863 (Acts of 1863, Chap., 1, Sec. 109: App. p. 132), made Confederate notes of the denomination of or over five dollars receivable for taxes, and the Act of Sept. 14, 1863 (Acts of 1863, Chap. 1, Sec. 1), made them receivable generally. An assessment in Confederate money (Feb. 1, 1863) as to those whose tax was less than \$5.00 and could not be discharged in Confederate money would operate somewhat oppressively.

The act of March 28, 1863, raised the rate of taxation as compared with 1861 on the average, approximately, 150 per cent. The purposes for which the public expenditures were made were not increased; if anything, the purposes for which revenue was expended were less in 1863, than in 1861, as it is conceded that the discharge of many of the public functions which involved expenditure by the Government at that time, were to quite a degree suspended. 150 per cent. more money was collected and disbursed to accomplish the same results that were accomplished in 1861.

The war expenses of Virginia it is conceded were met by loan. In the matter of taxation and the money collected therefor, the element of Confederate money was apparently reflected in the increase of 150 per cent. in the rate of taxation, rather than in the assessment.

The fact that personal property throughout the country generally very largely appreciated in value between 1861 and 1863 is of some significance. It seems clear that the basis of assessment was not Confederate money. Horses as an illustration were apparently assessed upon the same basis as in 1861 and at their fair value. If one item was assessed upon that basis, and upon its cash value, no reason is perceived why all of the other items of personal property, involved in the same assessment, were not made upon the same basis, and I see no reason why the rule does not apply to slaves, as well

as to other personal property. While there are inconsistencies and incongruities in connection with these assessments which it is difficult to explain, I have to take this branch of the case upon the elements that I find, and I do not think the plaintiffs have sustained the burden of showing the horizontal decrease from the assessed value of 75 per cent. The only other alternative is the value fixed by the assessors on the basis of the assessment in 1861, and I therefore find that the assessed value of the personal property is the fair estimated valuation of the personal property on the 20th day of June, 1863, namely:

In Virginia	\$403,696,228.59
In West Virginia	30,394,487.21

(Rec., 639, Ex. E-1, p. 1.)

It appears that the amount of income upon which an income tax was assessed in Virginia, as per the latest obtainable assessment rolls, prior to June 20, 1863, was in Virginia..... \$11,108,300.13 and in West Virginia..... 299,257.45

The defendant claims that these sums are a part of the personal property and should be so returned. These sums represent "the value of his income during the next year preceding" the date upon which the assessment was made (Code Va. 1860, Sec. 151, p. 198), where it exceeds \$250. It is gross, not net income. The fact that that amount was received in income during the preceding year, by no means indicates that it was on hand at the end of the year, especially where the tax was upon incomes as small as \$250 a year. The inference is that it was not so on hand. So far as it was on hand unspent, it would necessarily be represented by "money on hand or securities or other personal property," which items have already been included in the aggregate of personal property above given. If the gross income was to be treated as personal property on hand, it would result in duplicating it in the aggregate of value so far as it was on hand. I disallow the "income" as part of the personal property, June 20, 1863.

ALTERNATIVE FINDING.

I find at the request of the defendant that the
 amount of the income assessed for the year 1863
 was for Virginia counties..... \$11,108,300.13
 West Virginia counties..... 299,257.45

A fair estimated valuation of the property, real and personal, in
 Virginia counties, on January 1, 1861, I find to be as follows:

The parties agree that on that date, the fair esti-
 mated valuation of the slaves within the terri-
 tory of the present Commonwealth of Virginia
 was at that time..... \$162,537,936
 The fair estimated value of the other personal prop-
 erty in Virginia counties was..... \$102,114,863

This sum is reached by taking the amount of the assessment for
 1861 (Rec., p. 645), \$100,201,850, and adding thereto the assessment
 for Chesterfield for 1861 (Plff. Ex. H-1., p. 355), \$1,077,368, and
 Goochland (Plff. Ex. H-1., p. 395), \$835,645, these two counties not
 being included in the Schedule (Rec., p. 645), as no original books
 were found showing those assessments.

Real estate in Virginia..... \$293,018,031.30

Total real and personal in counties in Virginia in-
 cluding slaves..... \$557,670,830.30

And that the fair estimated valuation of such slaves
 at that time in the counties now constituting the
 State of West Virginia was..... \$6,319,624.

Other personal property in West Virginia (Supple-
 mental Ex. 6) \$23,469,172.
 Real estate in West Virginia..... \$83,600,730.55

Total real and personal in counties in West Virginia
 including slaves \$113,389,526.55

SUMMARY.

June 20, 1863.

Fair estimated value of real estate in Virginia counties	\$148,042,730.15
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Fair estimated valuation of personal property including slaves in Virginia counties.....	\$403,696,228.59
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Total real and personal in counties in Virginia including slaves	\$551,738,958.74
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Fair estimated value of real estate in West Virginia counties	\$67,676,127.44
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Fair estimated valuation of personal property including slaves in West Virginia counties.....	\$30,394,487.21
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Total real and personal in counties in West Virginia, including slaves.....	\$98,070,614.65
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Fair estimated valuation of real estate in counties in Virginia	\$148,042,730.15
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Fair estimated valuation personal property in counties in Virginia without slaves.....	\$152,844,637.59
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Total real and personal in counties in Virginia without slaves	\$300,887,367.74
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Fair estimated valuation of real estate in counties in West Virginia	67,676,127.44
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Fair estimated valuation personal property in counties in West Virginia without slaves.....	\$24,739,894.21
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Total real and personal in counties in West Virginia without slaves	\$92,416,021.65
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ALTERNATIVE FINDING.

AT THE REQUEST OF DEFENDANT.

The assessed valuation of real estate in the counties of Virginia June 20, 1863 was.....	\$296,085,460.31
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The assessed valuation of real estate in the counties of West Virginia June 20, 1863 was.....	\$82,449,252.04
Amount of income assessed in Virginia counties, 1863	\$11,108,300.13
In West Virginia counties in 1863.....	299,257.45

Jan. 1, 1861.

The fair estimated valuation of the slaves within the territory of the present Commonwealth of Virginia	\$162,537,936.
Of the other personal property in Virginia was....	\$102,114,863.
Real estate in Virginia.....	\$293,018,031.30

Total real and personal in counties in Virginia in- cluding slaves	\$557,670,830.30
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The fair estimated valuation of slaves in the coun- ties now constituting the State of West Virginia was	\$6,319,624.
Other personal property in West Virginia (Supple- mental Exh. 6)	\$23,469,172.
Real estate in West Virginia.....	\$83,600,730.55

Total real and personal in counties in West Virginia including slaves	\$113,389,526.55
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I find in the alternative at the request of the plaintiff that the apportionment of the ordinary expenses as found by me on the basis of values as claimed by plaintiff as shown in Joint Exhibit E-1, p. 2-a, excluding slaves is

Virginia	\$28,278,857.62
West Virginia	\$11,996,039.08

and on the same basis as shown in Joint Exhibit E-1, p. 3-a, including slaves,

Virginia	\$30,441,418.20
West Virginia	\$ 9,833,478.50

I find in the alternative at the request of the plaintiff that the apportionment of the ordinary expenses of the government as claimed by the plaintiff, on the basis of the values as claimed by the plaintiff, excluding slaves is as appears upon Joint Exhibit E-1, p. 2-a, and including slaves as appears upon Joint Exh. E-1, p. 3-a.

Fair Estimated Valuation—Virginia,

June 20, 1863:

Personal Property, *Including* Slaves..... \$403,696,228.59
 Real Estate..... 148,042,730.15

Total \$551,738,958.74=84.9078%

Fair Estimated Valuation—West Virginia

June 20, 1863:

Personal Property, *Including* Slaves..... \$ 30,394,487.21
 Real Estate..... 67,676,127.44

Total \$ 98,070,614.65=15.0922%

Ordinary Expenses of Government.....

\$40,274,896.70

Divided on above basis:

Virginia 84.9078% = \$ 34,196,528.74
 West Virginia 15.0922% = 6,078,367.96

Fair Estimated Valuation—Virginia,

June 20, 1863:

Personal property, *Without* Slaves..... \$152,844,637.59
 Real Estate..... 148,042,730.15

Total \$300,887,367.74=76.5026%

Fair Estimated Valuation—West Virginia

June 20, 1863:

Personal Property, *Without* Slaves..... \$ 24,739,894.21
 Real Estate..... 67,676,127.44

Total \$ 92,416,021.65=23.4974%

Ordinary Expenses of Government.....

\$40,274,896.70

Divided on above basis:

Virginia 76.5026% = \$30,811,343.12
 West Virginia 23.4974% = 9,463,553.58

Fair Estimated Valuation—Virginia,

Jan. 1, 1861:

Slaves	\$162,537,936.	
Other Personal Property.....	102,114,463.	
Real Estate	293,018,031.30	
Total	<u>\$557,670,430.30</u>	=83.1029%

Fair Estimated Valuation—West Virginia

Jan. 1, 1861:

Slaves	\$ 6,319,624.	
Other Personal Property.....	23,469,172.	
Real Estate	83,600,730.55	
Total	<u>\$113,389,526.55</u>	=16.8971%

Ordinary Expenses of Government.....	<u>\$40,274,896.70</u>
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Divided on above basis:

Virginia	83.1029% = \$ 33,469,607.13
West Virginia	16.8971% = <u>6,805,289.57</u>

Fair Estimated Valuation—Virginia,

Jan. 1, 1861:

Personal Property, <i>Without</i> Slaves.....	\$102,114,463.	
Real Estate	293,018,031.30	
	<u>\$395,132,494.30</u>	=78.6799%

Fair Estimated Valuation—West Virginia

Jan. 1, 1861:

Personal Property <i>Without</i> Slaves.....	\$ 23,469,172.	
Real Estate	83,600,730.55	
	<u>\$107,069,902.55</u>	=21.3201%

Ordinary Expenses of Government.....	<u>\$40,274,896.70</u>
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Divided on above basis:

Virginia	78.6799% = \$ 31,688,248.45
West Virginia	21.3201% = <u>8,586,648.25</u>

PARAGRAPH VI OF DECREE.

“6. ALL MONEYS PAID INTO THE TREASURY OF THE COMMONWEALTH FROM THE COUNTIES INCLUDED WITHIN THE STATE OF WEST VIRGINIA DURING THE PERIOD PRIOR TO THE ADMISSION OF THE LATTER STATE INTO THE UNION.”

I think the moneys paid into the Treasury of the Commonwealth from the Counties included within the State of West Virginia are intended to be the converse or complement of the expenditures made by the Commonwealth of Virginia in the same territory. These were public expenditures for public purposes. The amounts paid in are also to be public payments in discharge of some tax or public burden, or sums paid by the public, for the use of a public utility owned by the state.

The parties agree upon the sum of \$5,954,395.66 (Rec., p. 805; Ex. F-1, p. 1).

The following items are in controversy:

1. Bonus received from Banks.....\$96,253.62
The details which are essential to the determination of this item do not appear in the Record. They are in “Supplemental Ex. 3,” certified by both accountants. The first payment of \$5,000 was paid in 1838. The Act of 1837, Chap. 82, p. 66, relative to Banks, provided as follows:

“Sec. 7. That in consideration of the privileges hereby granted, there shall be paid to the Commonwealth, by every bank hereafter chartered, out of each semi-annual dividend, a sum equal to one-fourth of one per centum upon the then capital stock, which shall be paid by creating additional stock to that amount in the name of the Commonwealth, for the benefit of the fund for internal improvement.”

This Act provided for a payment of a franchise or excise tax in stock. The item of \$5,000 paid in 1838 appears to be in cash. There is nothing in the Record to indicate that it was stock paid under this statute. It is entered upon the books as a cash payment by the Bank. As no other explanation is given of the item, I will assume as a fair inference from the entry, that it was a tax paid in stock, and afterwards converted into cash to the amount of \$5,000 and allow it

upon that assumption as a payment.....\$5,000

All of the other payments were made under an Act passed March 25, 1842 (Acts of Va., 1841-2, p. 61, Chap. 105, Sec. 14) which provided that in consideration of the privileges hereby granted that a sum equal to one-fourth of one per centum upon the capital stock "shall be paid semi-annually by the said banks into the Treasury of this commonwealth."

This was a general statute and the tax imposed was a franchise or excise tax of the same kind as those referred to in the Code of Virginia, Chap. 40, Sec. 41, p. 249, the chapter defining the "Amount or rate of tax." It is included among other subjects of taxation and is clearly treated in the general statutes as a tax and I hold that it is a franchise, or excise tax, and therefore properly to be credited under that paragraph\$96,253.62

ALTERNATIVE FINDING.

At the request of the plaintiff, I find that the banks located in West Virginia paid into the Treasury of the Commonwealth for the privilege of exercising their franchises during the period above mentioned and in the manner above indicated.....\$ 96,253.62

7. Dividends from Banks in West Virginia counties \$786,666.98

These are not in any sense public payments. They are dividends which the State received on its own stock held in its private capacity, and are of the same character as the dividends paid to other stockholders. They are no more a public payment, or the discharge of a public burden, than are the dividends that are paid to the other stockholders. West Virginia is not charged with the investment, and no reason is perceived why she should receive a return upon a private investment which she refuses to assume.

The item is disallowed.

8. Dividends and interest from Turnpike Companies
in West Virginia counties..... \$13,595.48

9. Dividends from Bridge Companies in West Vir-
ginia \$6,028.51

10. Dividends from Interstate Turnpike Companies
(proportion) \$1,355.92

are of the same character and are disallowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the defendant that the aggregate of the last four mentioned items was all paid in dividends into the Treasury of the Commonwealth upon stock held by the Commonwealth, in said companies, whose banks and roads were located in West Virginia, with the exception of the dividends from Interstate Turnpike Companies (in which case the amount paid was in proportion to the portion of the road located in West Virginia), namely: \$807,646.89.

11. Dividends from James River and Kanawha Com-	
pany	\$352.21

14. Interest from the City of Wheeling.....	\$571.81
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These items have both been withdrawn.

20. Merchants & Mechanics Bank Stock sold (bonus	
stock)	\$43,103.35

The Act incorporating the Merchants and Mechanics Bank (Acts of Virginia, 1833-4, Chap. 72, p. 84, Sec. 20), provided:

“20. *And be it further enacted*, That in consideration of the privileges hereby granted to the said bank, there shall be paid to the commonwealth by the said bank, the sum of twenty-five thousand dollars, to be paid in twenty semi-annual instalments; which instalments when paid in shall be converted into stock, and a dividend thereon shall be declared from time to time, in the same manner as on shares held by individuals; the first instalment shall be paid one year after the first dividend be declared; *Provided*, That should the capital stock of said bank, at any time hereafter, be increased beyond the sum of three hundred thousand dollars, a similar bonus shall be paid on such increase, proportioned to the time for which this charter shall remain in force” (do. p. 92).

The Commonwealth received, under this section, from this bank 400 shares of stock which were sold for \$43,103.35 (Rec. p. 809). This was clearly a franchise or excise tax payable in stock instead of cash and is allowed.

ALTERNATIVE FINDING.

I find in the alternative at the request of the plaintiff that the Commonwealth received from the Merchants and Mechanics' Bank "in consideration of the privileges" granted to it as a franchise tax 400 shares of stock which was sold for \$43,103.35.

21. Northwestern Bank—Profit on 1,082 shares sold, \$5,471.42. This item has been withdrawn by the defendant.

22. Northwestern Turnpike Road tolls, \$126,339.89.

The defendant is charged with the expenditure on this road, which was a public work, and the money that was paid into the Treasury in tolls by the public for the use of the road is the converse of the public expenditure made by the State and comes fairly within the meaning of the decree and is allowed so far as it exceeds the amount of tolls expended for repairs.

23. Staunton & Parkersburg Road tolls, \$17,080.71 is also allowed for the same reason.

These tolls were used for making repairs on the respective roads, \$109,587.74 in the case of the Northwestern Turnpike and \$21,700.74 in the case of the Staunton and Parkersburg Turnpike, in all repairs, \$131,288.48. (Rec., 373, Ex. C. 1, p. 2.) The aggregate of tolls received on both roads is \$143,420.60, making, taking both roads together, a net receipt of tolls, \$12,132.12. The excess of tolls all occurs in the case of the Northwestern Turnpike and strictly speaking, the account should be stated, showing the excess of receipts in connection with that item, with an excess of charge for repairs in connection with the Staunton and Parkersburg Turnpike. Both roads in the discussion, however, have been taken together and the net result is precisely the same, and I therefore take the two items together and allow as a credit the net excess as above stated \$12,132.12.

ALTERNATIVE FINDING.

At the request of the plaintiff, I find that in the case of the last two items, the aggregate of \$143,520.60 was paid into the Treasury of the Commonwealth as tolls upon roads owned wholly by the Commonwealth as the result of public expenditure the roads being public in their character and the tolls being paid by the public for the use thereof.

SUMMARY.

Money paid into the Treasury of the Commonwealth from the counties included within the State of West Virginia:

Amount agreed upon	\$5,954,395.66
1. Bonus received from Banks.....	\$96,253.62
20. Merchants & Mechanics Bank Stock sold (bonus stock)	\$43,103.35
22. Northwestern Turnpike Road.....	\$12,132.12
23. Staunton & Parkersburg Road net tolls.....	
	\$6,105,884.75

ALTERNATIVE FINDINGS.

1. At the request of the plaintiff; that the banks located in West Virginia paid into the Treasury of the Commonwealth of Virginia "in consideration of the privileges" granted..... \$ 96,253.62
Under Items 7, 8, 9 and 10:

At the request of the defendant, that the aggregate of these items was all paid in dividends into the Treasury of the Commonwealth upon stock held by the Commonwealth in said companies..... \$807,646.89

20. At the request of the plaintiff, that the State received from the Merchants and Mechanics Bank, as a franchise tax 400 shares of stock which was sold for. \$ 43,103.35
Under items 22 and 23:

At the request of the plaintiff, that the aggregate of these two items was paid into the Treasury of the Commonwealth by the public as tolls upon roads owned wholly by the State..... \$143,420.60

PARAGRAPH VII OF DECREE.

"7. THE AMOUNT AND VALUE OF ALL MONEY, PROPERTY, STOCKS AND CREDITS WHICH WEST VIRGINIA RECEIVED FROM THE COMMONWEALTH OF VIRGINIA, NOT EMBRACED IN ANY OF THE PRECEDING ITEMS AND NOT INCLUDING ANY PROPERTY, STOCKS OR CREDITS WHICH WERE OBTAINED OR ACQUIRED BY THE COMMONWEALTH AFTER THE DATE OF THE ORGANIZATION OF THE RESTORED GOVERNMENT OF VIRGINIA, TOGETHER WITH THE NATURE AND DESCRIPTION THEREOF."

Under this Paragraph I find that the State of West Virginia received nothing in money from the Commonwealth of Virginia prior to the date of the organization of the Restored Government of Virginia or subsequent thereto.

ALTERNATIVE FINDING.

I find as an alternative finding, at the request of the plaintiff, that the State of West Virginia received from the Restored Government of Virginia sums of money as follows:

July 2, 1863.....	\$ 92,866.17	
July 2, 1863.....	\$ 47,734.03	\$140,600.20
July 9, 1863.....		\$9,399.80
Feb. 1, 1864.....		\$20,771.46
		\$170,771.46

Under the provisions of the Act passed February 3, 1863 (App. p. 128), there was transferred to the State of West Virginia, among other things,

“the interest of this state or of the said president and directors, or of the said board of public works, in any parent bank or branch doing business within the said boundaries; and all stocks of any other company or corporation, the principal office or place of business whereof is located within the said boundaries, standing in the name of this state or of the said president or directors, or of the said board of public works, or of any person or persons, for the use of this state” (do. p. 129).

While there is nothing in the record to show where the principal offices or places of business of the various turnpike companies, navigation companies and bridge companies are (Rec., 820 B, C, D, E, F, G, J, K), it is conceded upon the part of the defendant that the companies mentioned in said schedules had their “principal office or place of business” “located within the said boundaries,” that is, the State of West Virginia, and such stock was transferred to West Virginia by the operation of said Act of February 3, 1863.

And it is conceded upon the part of West Virginia under Para-

graph VII, that the stock in the various corporations above referred to, except the interstate companies, is included within the provisions of this Paragraph of the decree.

The only evidence in the Record bearing on the value of these various stocks are the facts that appear by these schedules showing the amounts paid by the State for its subscription to the stock of the various companies, and so far as dividends have been paid by said companies, the amount of the dividends that have been paid, certain admissions relating thereto, and the testimony of a number of witnesses as to the physical condition of the property of some of the companies, and the statement of the condition of the banks. In the case of many of the turnpike companies, no dividends were paid and the only fact that I have is the amount that the State paid upon its subscription. In such cases the evidence does not seem to me sufficiently definite to enable me to find that the stock at the time of its transfer to West Virginia had any value, as the inference to be drawn from the fact that no dividends have been paid is, that the property was not able to earn any return upon the investment, and an investment that can pay no return could hardly be considered to have any market value. In the cases where dividends have been paid during a number of years, I have the amount of the investment made by the State with the rate of the dividends, and in such cases I have capitalized the dividend upon the basis of the stock being worth par with a six per cent. dividend, and have determined the value accordingly, except in cases where it appears that the property of the company may have been destroyed prior to June 20, 1863. The method that I have adopted is, I appreciate, arbitrary but it is the only method that seems to be feasible on the facts presented.

Also to the Turnpike Companies intended to be covered by the stipulation (Rec., p. 864) the stipulation is too indefinite and uncertain to be of any assistance in determining the value of any particular road. The defendant contends that it covers some sixty-five roads and the plaintiff concedes only four. Only three of the roads claimed by the defendant were paying dividends in 1860, viz.: Grave Creek and Pennsylvania Line Co.; Holiday Cove Co. and the Martinsburg & Potomac. As to these in order to eliminate any controversy, as to the construction and effect of the stipulation, the plaintiff concedes that for the purposes of this report, the interest of the Commonwealth in the stock of those companies was of no value, June 20, 1863.

As to the 18 Turnpike Companies mentioned on page 820-B Rec., only the last—Grave Creek and Pennsylvania Line Co., admitted to be of no value—appears to have ever paid any dividend. The earliest was incorporated in 1837; the latest in 1853. Under these circumstances, I find that the stock that the Commonwealth owned in those companies had no value.

None of the sixteen turnpike companies mentioned on Page 820-C, Rec., (eliminating Holiday Cove and Martinsburg & Potomac as of no value) declared any dividends, they having been organized between the dates of 1847 and 1854 and there is nothing to indicate that the stock had any market value on June 20, 1863 and I therefore find that these stocks were of no value.

The first fifteen turnpike companies mentioned on page 820-D, Rec., with the exception of the New Creek and Hardy Turnpike Company do not appear to have paid any dividends from the date of their incorporation up to 1860, the earliest being incorporated in 1830. The New Creek and Hardy Turnpike Company appears to have paid one dividend of \$271.25 upon an investment on the part of the Commonwealth of \$5,431.24 in 1850.

Under these circumstances, it does not appear that there are sufficient facts in the record to justify me in finding that there was any market value to the stock the Commonwealth held in any of these companies on the 20th day of June, 1863, and I therefore find that the stocks had no market value.

The Sheperdstown and Smithfield Turnpike Company, incorporated in 1816, in which the Commonwealth had invested in the stock \$18,575, appears to have paid eight dividends during the period of 23 years ending in 1839 with no dividends since that date. The first dividend was paid in 1832, \$399.38, and the last in 1839 of \$40, showing a marked decrease in the dividend during the dividend paying period, with no dividends for the 22 years intervening between 1839 and 1861, and upon this state of facts I find that the stock in that company had no value on June 20, 1863.

Of the four remaining companies on page 820-D, Rec., only one appears to have paid any dividends. As to the other three, I find that their stock had no value on June 20, 1863.

The Sweet and Salt Sulphur Springs Turnpike Company, organized in 1849, in the stock of which the Commonwealth had an investment of \$10,104, (820-D, Rec.) began to pay dividends in 1855 and paid continuously until 1859, the dividend in 1859 being \$459. The average dividend paid during the five years of the dividend

paying period was \$491.92. No dividend appears to have been paid in 1860, but the inference from the payment of dividends of a substantial amount, for the preceding five years, makes it reasonably certain that the property was of value and had a dividend paying capacity. Why a dividend in 1860 was not paid, does not appear, but in the absence of any evidence showing any injury to the physical value of the property, or any unusual loss or the occurrence of any fact tending to destroy its value, I think it is a reasonable inference that the failure to pay the dividend must have been for a cause other than one affecting the real value of the stock, and on the basis of the last dividend of $4\frac{1}{2}$ per cent. the investment of the Commonwealth would be worth \$7,578, on the 20th day of June, 1863, and I value it at \$7,578.

The first five turnpike companies mentioned on page 820-E, Rec., organized from 1847 to 1851 do not appear to have paid any dividends, and I therefore find that the stock that the Commonwealth held therein was of no value on June 20, 1863.

The White and Salt Sulphur Springs Turnpike Company, organized in 1834, in the stock of which the Commonwealth had invested \$4,000, paid dividends continuously with the exception of two years from 1838 to 1860, the last dividend being \$400, with an average dividend of \$240 a year or 6%, I therefore value the interest that the Commonwealth held in the stock of this company at par, \$4,000.

The other six turnpike companies mentioned on page 820-E, Rec., with the exception of Wellsburg and Washington Turnpike Company do not appear to have paid any dividends, and I therefore find that the interest that the Commonwealth held in the stock of these companies was of no value on June 20, 1863.

The Wellsburg and Washington Turnpike Company organized in 1808, in which the Commonwealth had an investment of \$7,071.01, paid two dividends in 1837 and 1838, the last being \$212.13, and has declared no dividends since, and I find that under those circumstances the stock of that company on June 20, 1863 had no value.

The four navigation companies mentioned on page 820-F, Rec., organized between 1817 and 1853 do not appear to have ever declared any dividends and I find that the stock of the Commonwealth in these companies had no value June 20, 1863.

It is admitted that the bridge of the Buchannon Bridge Company was destroyed April 1863, and that the bridge of the Cheat River Toll Bridge Company was destroyed in the same month; and that

the bridge of the Elk River Bridge Company, was destroyed in 1862. The bridge of the North Branch Bridge Company was destroyed in 1862, and the bridge of the South Branch Bridge Company was destroyed in 1862, and that the bridge of the Virginia and Maryland Bridge Company was destroyed in 1861 (Rec., p. 863).

I find that the stock in these companies was of no value on June 20, 1863.

The Fairmont and Palatine Bridge Company, in the stock of which the Commonwealth had invested \$12,000 it is admitted paid a six per cent. "dividend for several years after the end of the war on the par value of the stock of \$12,000 assigned to the State of West Virginia therein," and for that reason I find that that stock was of the value on June 20, 1863 of \$12,000 (Rec., p. 863).

The Guyandotte Bridge Company and the Morgantown Bridge Company, incorporated respectively in 1848 and 1850, have never paid any dividends and for the reasons given above, I find that the stock that the Commonwealth held in those companies was of no value on June 20, 1863.

The four turnpike companies referred to on page 820-G, Rec., organized respectively in 1832, 1837 and 1851 do not appear to have ever paid any dividends and for that reason, I hold that the stock in those companies on June 20, 1863 was of no value.

The five turnpike companies referred to on page 820-H, Rec., with the exception of the Hillsborough and Harpers Ferry Turnpike Company and the Martinsburg and Winchester Turnpike Company, while organized in 1846, 1851 and 1856, respectively, do not appear to have ever paid any dividends, and for that reason I hold that the stock was of no value on June 20, 1863.

The Hillsborough and Harper's Ferry Turnpike Company, incorporated in 1849, in the stock of which the Commonwealth invested \$6,000 declared only one dividend of \$250 in 1856, and upon that state of facts I am not able to find that the stock had any value on the 20th day of June, 1863.

The Martinsburg and Winchester Turnpike Company, organized in 1838, in the stock of which the Commonwealth had invested \$27,000 declared two dividends one in 1859 and one in 1860 of \$803.27 and \$405 respectively. Taking the last dividend as the basis of valuation which was at the rate of one and $\frac{1}{2}$ per cent. or $\frac{1}{4}$ of 6 per cent.. I find that the stock in that company was on June, 20, 1863 of the value of \$6,750.

There is nothing in the record to show where "the principal office or place of business" of this road is located and I do not understand that the admission of the defendant applies to interstate roads. I am not able to find that this stock was ever transferred to West Virginia. This is an interstate road 59.09% being within the counties included within the State of West Virginia.

Of the two corporations mentioned on page 820-J, Rec., one the North Frederick Turnpike Company in which the Commonwealth invested in its stock \$11,325 in 1851, paid only one dividend and that in 1857, and upon these facts I do not feel authorized to find that the stock had any value on the 20th day of June, 1863.

The Raleigh and Wythe Line Turnpike Company, organized in 1860, in which the Commonwealth paid on an authorized stock subscription of \$4,800, \$400 only, does not appear to have paid any dividend that year and apparently could hardly have been fully constructed. There is not sufficient data in the record to enable me to form any opinion as to its value, and therefore, I do not find that the stock had any value on June 20, 1863.

On the 20th of June, 1863, the Commonwealth held 3,418 shares of the capital stock of the Northwestern Bank of Virginia of a par value of \$100, which if worth par would be worth \$341,800. This par value was at first conceded by the defendant to be chargeable to West Virginia (Rec., p. 280-A, Deft.'s Ex. G-1, p. 1). Since filing the schedule making this admission, West Virginia withdrew the admission and changed it to \$136,630., and that sum was reached as follows:

It appears from the testimony of Mr. Dering (Rec., p. 892) and the certificate of J. S. Darst, the auditor of West Virginia (do., p. 851) and supplemental brief filed by defendant, that West Virginia received on account of the original stock in the Northwestern Bank of Virginia at Wheeling, 300 shares of stock in the National Bank of West Virginia in the City of Wheeling, 400 shares of stock in the Parkersburg National Bank of Parkersburg, West Virginia, and 351 shares of stock, in the first National Bank of Wellsburg, at Wellsburg, West Virginia, these being the banks that were the successors of the Northwestern Bank of Virginia, known as the parent bank and of its branches at Parkersburg and Wellsburg, respectively. The par value of the shares was \$100. At their par value they would be worth \$105,100. The record contains nothing as to the assets of these banks, upon which an estimate of the value of this stock can be made. It further appears that dividends from

the remaining assets of the Northwestern Bank of Virginia were received by West Virginia as follows:

July 9, 1867	\$10,510.00
August 12, 1868	\$10,510.00
Sept. 1, 1871 (in deft.'s brief)	\$10,510.00
	\$31,530.00

which added to the \$105,100 makes the total amount now admitted by West Virginia as the value of the 3,418 shares of the stock of the Northwestern Bank. There is nothing in the record to show when this bank was reorganized or the circumstances under which the reorganization took place. The auditor's report of West Virginia shows the stock was delivered July 1, 1863. The reorganization and the distribution of the stock in the various banks, and of the cash dividends, appear to have taken place three years and more after June 20, 1863. Upon the other hand, as indicating the value of the stock, there is a joint "Supplemental Ex. 8" certified by the accountants for both parties, showing that the dividend for 1860 upon the stock of the Northwestern Bank was eight per cent. and the average dividend from 1844 to 1860 inclusive was $7\frac{1}{2}\%$, or $\frac{1}{4}$ more than 6%. The statement of the condition of the Bank in a return made February 27, 1861, showing the condition on Jan. 1, 1861, and one of the Fairmont bank dated Apr. 27, 1861, showing its condition Apr. 1, 1861, are marked "Supplemental Ex. 9."

The defendant concedes that the Fairmont bank that was paying only a 4% dividend was worth par June 20, 1863 (Rec., p. 820-A).

There is nothing to indicate any change of any kind in the condition of the Northwestern Bank, either by way of assets or business or capacity to declare dividends between Jan. 1, 1861 and June 20, 1863. That it met with some serious financial difficulties between January 1, 1861, and July 1, 1866, would seem to be necessary conclusion from the condition of the bank at the time of its reorganization, but as to what they were, or when they occurred, the record is silent.

A comparison between the Fairmont Bank and the Northwestern will be instructive on the question of value. The notes due from other banks in Virginia to the Northwestern increased from 1860 to 1861 approximately 100%, and there was substantially the same percentage of increase of similar notes due to the Fairmont Bank.

The surplus and profits of the Northwestern decreased from 1860 to 1861, 10%. In the Fairmont Bank there was an increase of 11%. If the Fairmont Bank had paid a dividend of 6% instead of 4% the decrease would have been substantially the same. The surplus of the Northwestern was nearly 12% of its capital, of the Fairmont about 5¾%. In the Northwestern the deposits decreased 4% and in the Fairmont 20%. The Fairmont Bank appears to have paid but one dividend of 4%. The Northwestern had an established business and had been paying dividends regularly since 1843 at an average rate of 7½% (for four years 10%), and was paying 8% in 1860. If under these circumstances the Fairmont Bank stock was worth par, it seems that the Northwestern stock should be worth at least ¼ more than par, and I would be justified in applying the same rule as to value, that I have applied to the public service corporations, and I therefore add ¼ to the par value and find the value of the stock June 20, 1863, to be \$427,250.00.

I think it clear that this a conservative value Jan. 1st, 1861, two years and five months prior to the time when the valuation is made. There is a presumption of continuance. There was great expectations of success in the Confederacy, until Gettysburg in July, 1863, which had some tendency to maintain credit conditions, and while my conclusion is largely arbitrary, taking everything into account, I think the valuation reached reasonable.

ALTERNATIVE FINDING.

I find in the alternative at the request of the defendant that West Virginia received on account of the reorganization of the Northwestern Bank in stock and cash \$136,630. between July 1, 1866, and Sept. 1, 1871, and it does not appear that at that time the Northwestern had any other assets.

I find pursuant to the admission of the defendant (Rec. 820-A) that the stock of the Fairmont bank was of the value of \$50,000.

A detailed statement of the investment of the Commonwealth in the capital stock of the James River and Kanawha Company appears on pages 820-L and 820-M, Rec. By this it appears that 3.49 per cent. of the improvement was located in West Virginia (p. 820-M). The only dividend that the company appears to have ever paid is \$10,092. in 1836 (p. 820-L).

Under these circumstances I find that the stock of this Company had no value on June 20, 1863.

SUMMARY.

I find the values set against the respective companies as follows:

Sweet & Salt Sulphur Springs Co. stock.....	\$7,578.
White & Salt Sulphur Spring Co. stock.....	\$4,000.
Fairmont & Palatine Bridge Co. stock.....	\$12,000.
Northwestern Bank of Va. stock.....	\$427,250.
Fairmont Bank stock.....	\$50,000.
Total	\$500,828.

ALTERNATIVE FINDINGS.

Received by West Virginia from the Restored Govern- ment	\$170,771.46
Received by West Virginia between July 1, 1866 and Sept. 1, 1871, from the reorganization of the Northwestern Bank in stock and cash.....	\$136,630.

GENERAL SUMMARY.

PARAGRAPH I.

Amount of the Public Debt of the Commonwealth of Virginia
January 1, 1861, \$33,897,073.82.

Stated as a Special Circumstance:

Amount of bonds of Commonwealth held by Sinking Fund, \$1,-
369,243.92.

Amount of bonds of Commonwealth held by Literary Fund \$1,-
116,843.35.

Amount of bonds Chesapeake & Ohio Canal Co. guaranteed by
Virginia in 1847 \$300,000.

PARAGRAPH II.

1. EXTENT:

Land Area:

Virginia	40,262	Square Miles =	62.6314%
West Virginia	24,022	do. =	37.3686%
Total	64,284	do. =	100%

Total Area:

Virginia	42,627	Square Miles =	63.8157%
West Virginia	24,170	do. =	36.1843%
Total	66,797	do. =	100%

2. ASSESSED VALUATION:

Real Estate:

Virginia	\$296,085,460.31 =	78.2188%
West Virginia	82,449,252.04 =	21.7812%
Total	\$378,534,712.35 =	100%

POPULATION:

With Slaves:

Virginia	1,221,319 =	75.4855%
West Virginia	396,633 =	24.5145%
Total	1,617,952 =	100%

Without Slaves:

Virginia	748,171 =	66.4769%
West Virginia	377,289 =	33.5231%
Total	1,125,460 =	100%

ALTERNATIVE FINDINGS.

At the request of defendants, I make an alternative finding that the population of the counties now forming the State of Virginia, as shown by the census of the United States for 1860, is as follows:

Without slaves	747,136=67.5864%
With slaves	1,219,630=76.4027%

And for the counties now forming the State of West Virginia:

Without slaves	358,317=32.4136%
With slaves	376,688=23.5973%

The assessed valuation of the territory of Virginia for 1860 was \$293,105,895.55

The assessed valuation of the territory of West Virginia for 1860 was \$83,814,355.61

PARAGRAPH III.

Expenditures made by the Commonwealth of Virginia within the territory now constituting West Virginia are as follows:

1.	Amount agreed upon by both parties.....	\$1,251,288.92
2.	Covington & Ohio R. R.	\$1,146,460.42
10.	Kanawha Turnpike.....	\$ 152,130.54
11.	“ “	\$ 2,593.92
12.	“ “	\$ 7,189.65
13.	“ “	\$ 80,955.28
14.	Kanawha River Improvements.....	\$ 59,572.36
25.	Brandonville, Kingwood & Evansville Road. ...	\$ 10,595.73
28.	Clarksburg & Buchannon Turnpike (Macadamiz- ing)	\$ 19,259.36
35.	Kingwood & West Union Turnpike.....	\$ 18,140.61
55.	Surveys—expended directly within the territory. \$	60,873.19
150.	Road from Bath to St. Johns River.....	\$ 2,500.00
Total		\$2,811,559.98

ALTERNATIVE FINDINGS.

At the request of defendant.

The Commonwealth received on account of the Blue Ridge Railroad in bonds and interest.....	\$625,348.08
and was relieved from a contingent liability upon a guarantee of	\$100,000.00
3. At the request of the plaintiff, the Commonwealth subscribed and paid for capital stock of the Winchester & Potomac Railroad Company, to the extent of	\$120,000.00
The Commonwealth loaned to the said company.....	\$150,000.00
Upon the basis of mileage, the proportion of these sums that would be chargeable to West Virginia, is...	\$170,532.00
I state as a special circumstance important to be taken into account that as a result of legislation predicated upon both the stock and loan that the Commonwealth had in this Road, there was paid into the Commonwealth in 1886, the sum of.....	\$118,518.12
6. At the request of the plaintiff, that the Commonwealth subscribed and paid for stock in the Berryville and Charlestown Turnpike Co. and upon the mileage basis of 58 1-3 per cent. the amount chargeable to West Virginia would be.....	\$11,932.52
15. At the request of the plaintiff, that the Commonwealth loaned to the Kanawha Board of its bonds	\$60,000.
56. At the request of the plaintiff, that..... was in the hands of the Treasurer of the Trans-Allegheny Lunatic Asylum, deposited in the Weston Branch of the Exchange Bank of Virginia, unexpended, January 1, 1861, which was afterwards taken from the Bank by the Restored Government of Virginia and subsequently returned to the Asylum.	\$27,000.

At the request of the plaintiff, that in the various bridge companies, located in West Virginia, Items 57 to 65, inclusive, the Commonwealth subscribed and paid for stock..... \$78,412.50

That in the various navigation companies located in West Virginia, Items 66 to 69, inclusive, the Commonwealth subscribed and paid for stock..... \$210,500.00

That in the various Turnpike companies, Items 70 to 147, inclusive, all of which were in the territory now constituting West Virginia, the Commonwealth subscribed and paid for stock..... \$803,555.83
700,103.49 of which was wholly in Virginia and \$103,452.34 was West Virginia's portion in case of companies partly within her limits.

That in the two banks mentioned in Items 148 and 149, within the territory now constituting the State of West Virginia the State subscribed and paid for stock..... \$391,800.00

At the request of the defendant, I find that the sum of \$2,500 was invested under circumstances where the trustees of the Town of Bath assumed a contingent liability, only, of paying the interest upon the sum expended by the State, after the tolls remaining from the operation of the road after the payment of "necessary expenses and repairs" and profits received from the operation of a spring, were applied thereto, and that this was the only liability that the trustees of the Town of Bath assumed in connection with this expenditure of \$2,500.

PARAGRAPH IV.

SUMMARY ORDINARY EXPENSES.

The amount agreed upon between the parties is \$18,207,684.29
1. Tobacco receipts \$353,123.96

3.	Slaves transported and executed.....	\$311,168.35
5.	Maps, Board of Public Works.....	\$11,446.48
7.	International Exchanges	\$2,836.19
9.	Printing Treasury Notes	\$375.74
13.	Improvement in public squares.....	\$1,456.91
14.	Fugitive slave expense; reward additional....	\$2,201.00
16.	Calling out militia at Wheeling, in 1836.....	\$1,099.00
18.	Atty.-Gen.'l fees prosecuting Selden, Withers & Co. Claim	\$500.00
19.	Remodelling and repairing old building of Eastern Asylum	\$5,000.00
	Support Western Asylum	\$7,450.01
23.	Sundry Board of Public Works expenses.....	\$36,728.50
24.	Interest on public debt.....	\$18,574,747.84
	Expense of Harper's Ferry Raid.....	\$251,763.65
	Expended for primary schools.....	\$2,400,331.11
	General expenses connected with surveys....	\$106,983.67
		\$40,274,896.70

SUMMARY ALTERNATIVE FINDINGS.

- At the request of the defendant, that the Commonwealth received from Tobacco Receipts..... \$353,123.96
- At the request of the plaintiff, that the Commonwealth expended for two Constitutional Conventions, held in 1829 and 1850..... \$258,906.28
- At the request of the plaintiff, that under the acts of the legislature above referred to, the Commonwealth expended in running boundary lines.. \$16,704.78
- At the request of the plaintiff, that the Commonwealth expended under acts of the legislature for maps
- At the request of the plaintiff, that The Commonwealth expended in original construction and other additions to or increase of the plant of the Deaf, Dumb and Blind Institu-

	tion, the details of which are on pp. 5, 6 and 7 of Joint Ex. D-1.....	\$80,661.94
8.	At the request of the plaintiff, that the Commonwealth overpaid on Treasury notes.....	\$50.00
10.	At the request of the plaintiff, that the Commonwealth lost on account of counterfeit money.....	\$190.00
11.	At the request of the plaintiff, that the Commonwealth expended in the erection of buildings and additions thereto and installation of heating and lighting plants connected with the Va. Military Institute	\$151,000.00
12.	At the request of the plaintiff, that the Commonwealth expended in "repairing and improving the buildings and furnishing a supply of water for the protection and preservation" of buildings &c. of the University of Virginia.....	\$25,000.00
13.	At the request of the plaintiff, that the Commonwealth expended for Improvements to Capitol Square the sum of	\$12,278.47
15.	That the Commonwealth expended on additions to Penitentiary lot, New Hospital, Buildings, etc.	\$13,947.48
17.	At the request of the plaintiff that the Commonwealth expended for "enlarging the hospital and infirmary and extending the college buildings, and for improvement and extension of the college museum" of the Medical College of Virginia....	\$25,000.00
19.	At the request of the plaintiff, that the Commonwealth expended on the Eastern & Western Asylums for items appearing on pages 531 to 538 incl.—Joint Ex. D-1, pp. 15 to 22 incl.....	\$331,845.56
20.	At the request of the plaintiff, that the Commonwealth expended for Gun House at Alexandria..	\$900.00

21. At the request of the plaintiff, that the Commonwealth expended for Cannon House Surry County	\$110.00
22. At the request of the plaintiff, that the Commonwealth expended for Cannon House for Richmond Artillery	\$1,079.09
23. At the request of defendant, that the Commonwealth expended for expenses of the B. P. W.....	\$36,728.00
24. At the request of the defendant, that the Commonwealth expended for interest on its public debt	\$18,574,747.48

I find in the alternative at the request of the plaintiff, that the amount of the ordinary expenses and the apportionment thereof, according to the claims of the plaintiff, are correctly stated on pages 515 and 516 of the Record.

PARAGRAPH V.

June 20, 1863.

Fair estimated value of real estate in Virginia counties	\$148,042,730.15
Fair estimated valuation of personal property including slaves in Virginia counties.....	\$403,696,228.59
Total real and personal in counties in Virginia including slaves	\$551,738,958.74
Fair estimated value of real estate in West Virginia counties	\$67,676,127.44
Fair estimated valuation of personal property including slaves in West Virginia counties.....	\$30,394,487.21
Total real and personal in counties in West Virginia, including slaves	\$98,070,614.65
Fair estimated valuation of real estate in counties in Virginia	\$148,042,730.15
Fair estimated valuation personal property in counties in Virginia without slaves.....	\$152,844,637.59
Total real and personal in counties in Virginia without slaves	\$300,887,367.74

Fair estimated valuation of real estate in counties in West Virginia	\$67,676,127.44
Fair estimated valuation personal property in coun- ties in West Virginia without slaves.....	\$24,739,894.21
Total real and personal in counties in West Vir- ginia without slaves	\$92,416,021.65

ALTERNATIVE FINDING.

AT THE REQUEST OF DEFENDANT.

The assessed valuation of real estate in the counties of Virginia June 20, 1863 was.....	\$296,085,460.31
The assessed valuation of real estate in the counties of West Virginia June 20, 1863 was.....	\$82,449,252.04
Amount of income assessed in Virginia counties, 1863	\$11,108,300.13
In West Virginia counties in 1863.....	\$299,257.45

Jan. 1, 1861.

A fair estimated valuation of the property, real and personal, in Virginia counties, on January 1, 1861, I find to be as follows :

The parties agree that on that date, the fair esti-
mated valuation of the slaves within the terri-
tory of the present Commonwealth of Virginia
was at that time..... \$162,537,936.

The assessed value of the other personal property
in Virginia counties was..... \$102,114,863.

This sum is reached by taking the amount of the assessment for 1861 (Rec., p. 645), 100,201,850, and adding thereto the assess-
ment for Chesterfield for 1861 (Plff. Ex. H-1., p. 355), 1,077,368,
and Goochland (Plff. Ex. H-1., p. 395), 835,645, these two counties
not being included in the Schedule (Rec., p. 645), as no original
books were found showing those assessments.

Real estate in Virginia	\$293,018,031.30
Total real and personal in counties in Virginia in- cluding slaves	\$557,670,830.30

And that the fair estimated valuation of such slaves
 at that time in the counties now constituting
 the State of West Virginia was..... \$6,319,624.

Other personal property in West Virginia (Supple- mental Exh. 6)	\$23,469,172.
Real estate in West Virginia.....	\$83,600,730.55
Total real and personal in counties in West Virginia including slaves	\$113,389,526.55

I find in the alternative at the request of the plaintiff that the apportionment of the ordinary expenses as found by me on the basis of values as claimed by plaintiff as shown in Joint Exhibit E-1, p. 2-a, excluding slaves is

Virginia	\$28,278,857.62
West Virginia	\$11,996,039.08

and on the same basis as shown in Joint Exhibit E-1, p. 3-a, including slaves,

Virginia	\$30,441,418.20
West Virginia	\$9,833,478.50

I find in the alternative at the request of the plaintiff that the apportionment of the ordinary expenses of the government as claimed by the plaintiff, on the basis of the values as claimed by the plaintiff, excluding slaves is as appears upon Joint Exhibit E-1, p. 2-a, and including slaves as appears upon Joint Ex. E-1, p. 3-a.

PARAGRAPH VI.

Money paid into the Treasury of the Commonwealth from the counties included within the State of West Virginia :

.Amount agreed upon	\$5,954,395.66
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1. Bonus received from Banks.....	\$96,253.62
20. Merchants & Mechanics Bank Stock sold (bonus stock)	\$43,103.35
22. Northwestern Turnpike Road.....	\$12,132.12
23. Staunton & Parkersburg Road, net tolls.....	
	\$6,105,884.75

ALTERNATIVE FINDINGS.

1. At the request of the plaintiff, that the banks located in West Virginia paid into the Treasury of the Commonwealth of Virginia "in consideration of the privileges" granted.....	\$96,253.62
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Under items 7, 8, 9 and 10:

At the request of the defendant, that the aggregate of these items was all paid in dividends into the Treasury of the Commonwealth upon stock held by the Commonwealth in said companies.....	\$807,646.89
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20. At the request of the plaintiff, that the State received from the Merchants and Mechanics Bank, as a franchise tax 400 shares of stock which was sold for	\$43,103.35
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Under items 22 and 23:

At the request of the plaintiff, that the aggregate of these two items was paid into the Treasury of the State by the public as tolls upon public roads owned wholly by the State.....	\$143,420.60
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PARAGRAPH VII.

I find the values set against the respective companies as follows:

Sweet & Salt Sulphur Spring Co. stock.....	\$7,578.
White & Salt Sulphur Springs Co. stock.....	\$4,000.
Fairmont & Palatine Bridge Co. stock.....	\$12,000.
Northwestern Bank of Va. stock.....	\$427,250.
Fairmont Bank stock.....	\$50,000.

Total	\$500.828.
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ALTERNATIVE FINDINGS.

Received by West Virginia from the Restored Government	\$170,771.46
Received by West Virginia between July 1, 1866 and Sept. 1, 1871, from the reorganization of the Northwestern Bank in stock and cash.....	\$136,630.

Dated, New York, March 17, 1910.

CHARLES E. LITTLEFIELD,
Special Master.

Names of Residents of West Virginia and Others Holding or Owning Bonds, Registered Stock, or Deferred Certificates of the Commonwealth of Virginia.

On the 19th day of July, 1911, the Board of Public Works of the State of West Virginia, adopted the following order:

“WHEREAS, There has been much demand in connection with the Virginia Debt Suit for the names of the persons who are holders of the so-called ‘West Virginia Deferred Certificates,’ issued by the State of Virginia with respect to the one-third of Virginia’s debt prior to January 1, 1861, which that State arbitrarily set aside as the portion of such debt that the State of West Virginia should assume; and,

“WHEREAS, A list of the persons owning such certificates has been procured from Messrs. Brown Brothers & Company, of New York City, the depository of such certificates, and from the Second Auditor of Virginia, so far as the names of such owners are known and can be procured; therefore, it is

“*Ordered*, That the list of the names and the addresses of the owners of such certificates, so procured, and also the names and the addresses of the owners of the Virginia coupon bonds and certificates of registered stock held by citizens of West Virginia as appears in the Journal of the Constitutional Convention of 1872, be printed in pamphlet form, for free distribution among the people of this State, and that six thousand (6,000) copies of such pamphlet be published.” (Record Board of Public Works, No. 6.)

Present interest in this matter arises largely from the suit of the Commonwealth of Virginia against the State of West Virginia, instituted in the Supreme Court of the United States in the year 1906, to recover from West Virginia her “equitable proportion” of the public debt of Virginia existing on the first day of January, 1861, and amounting then to the sum of \$33,897,073.82.

Under the Funding Acts of the General Assembly of Virginia, passed in 1871, 1879, 1882 and 1892, Virginia undertook to fund said debt and accrued interest. The owners of the old bonds were required to surrender the same for cancellation, and accept for such old bonds new bonds for two-thirds of the amount of the old bonds and interest and a certificate for the other one-third, which one-third Virginia arbitrarily declared was the portion of the debt for which West Virginia was liable. These certificates are known as "Virginia Deferred Certificates," and often are called "West Virginia Deferred Certificates."

After several years of effort these certificates were gathered together, and finally placed in the hands of Brown Brothers & Company, of New York City, as depositary, who, previous to the bringing of said suit, turned the same over to the Virginia Debt Commission. When the holder of any of these certificates turned the same over to the depositary, he received a receipt in the form of an engraved certificate, of which the following is a copy:

VIRGINIA DEBT CERTIFICATES.

No.

\$.....

Receipt of

BROWN BROTHERS AND COMPANY.

This Certifies that Brown Brothers and Company have received the following certificate issued by the State of Virginia on account of that part of her Funded Debt assumed to be the proportion of the State of West Virginia, namely:

Certificate No.

issued to
for Dollars

Messrs. Brown Brothers and Company agree to hold said certificate in accordance with the terms of a certain agreement, dated July 15th, 1898, between John Crosby Brown, George Coppel, J. Kennedy Tod, and Clarence Cary, parties of the first part, and such persons as deposit their securities thereunder, parties of the second part. This receipt is negotiable, and all the interest of the owner of said certificate passes by the delivery hereof.

N. B. The deposited securities have been carefully examined, New York.....19..
but no responsibility for their genuineness is undertaken by the issue of this certificate.

.....

It is understood that it is the above certificates of the depository, which are negotiable and pass by delivery, that are listed and sold in the New York markets.

In connection with the above depository's certificate, Brown Brothers & Company, in a letter of March 15, 1911, to the Attorney General of West Virginia, says:

"We regret to say that our records do not show the names or post office addresses of the certificate holders, either as of the first day of October, 1906, or of the first day of January, 1911, as you request. Our records show the names of the persons to whom Virginia issued the certificates, together with Virginia's number and the amount of each certificate respectively.

"For your information we enclose cancelled copy of one of our receipts. These receipts are transferable by bearer and pass by delivery like any bearer bond.

"The only method we have of communicating with holders of certificates is by advertising in the daily press of New York and London, as provided in the Depositing Contract.

"We have had an estimate made of what it will cost to have the list of the holders of Virginia Certificates, as noted above, copied from our records for you, and are advised that the cost will be not to exceed \$250. If you desire to have this information, and will advise us accordingly, we shall be pleased to have the work begun at once."

In a letter of March 24, 1911, Brown Brothers & Company say:

"We can furnish you with the names (but not the addresses) of the persons to whom the State of Virginia issued the West Virginia Deferred Debt Certificates in so far as they have been deposited with us. Our Receipts are 'bearer' receipts, and our only means of communicating with the holders is by advertising.

"Replying to your further question, our records do not show those persons residing in West Virginia who hold bonds and have not deposited them to receive certificates, and we have no means of ascertaining this information."

Again, in a letter of April 13, 1911, Brown Brothers & Company say:

"As far as we are informed, a large part of the certificates deposited with us are held by the original holders of the old Virginia bonds, and have not been acquired

by subsequent purchasers. These original holders will be shown by our list, but what transfers have been made will not be shown, for the reason stated in our previous letter."

The aid of the Virginia Debt Commission was invoked to obtain the names and addresses of the owners of the Virginia Deferred Certificates, but without success. Under date of January 18, and March 18, 1911, the Hon. John B. Moon, Chairman of that Commission, writes:

"I beg to say that the exhibits show that certificates to the amount of \$13,173,435.41, as of January 6th, 1906, had been deposited with the New York Depositing Committee, consisting of John Crosby Brown, chairman, R. P. Chew, Wm. C. Legendre, Clarence Carey, J. Kennedy Todd, George F. Baker and Bartlett S. Johnson; and of which committee Brown Brothers & Company were the depository; which certificates were on the date last named transferred to and placed at the disposal of the Virginia Commission, as shown in said exhibits.

"Since the date last above named the said Depositing Committee have placed under the control and disposition of the Virginia Debt Commission \$333,426.36 more of said certificates, upon the conditions above named, making the whole amount now under control of the Virginia Commission \$13,506,861.77.

"There were, as I understand it, a large number of receipts given by the above-named Depository of the Depositing Committee for these certificates, which were in large part for fractional amounts, and many of these receipts have doubtless been transferred since they were issued, so that a list of the original depositors would not be any certain guide as to the present claimants."

"I do not believe that over \$5000 or \$7500 of these certificates appeared to come from any one in West Virginia, but this, of course, is only a matter of impression and belief on my part."

In response to a resolution of the West Virginia State Senate, adopted on February 4, 1911, the Attorney General of West Virginia stated:

"The pleadings in the case do not disclose the names nor the residences of the holders of the Virginia, or so-called 'West Virginia certificates;' it was not a subject of inquiry referred to the Master in the order of reference entered by the court, and for that reason no

evidence could be taken before the Master on that subject; after the completion of the Master's report counsel for West Virginia petitioned the Supreme Court of the United States on the 18th day of April, 1910, for the right to take testimony on matters not referred to said Special Master, the primary object of which was for the purpose of ascertaining the information asked for in section six of said Senate resolution, and after consideration of the petition the court refused to direct the taking of such testimony; subsequently the Attorney General endeavored to ascertain this information by letter and by personal application from the depositaries of such certificates in New York City, and from the Honorable John B. Moon, Chairman of the Virginia Debt Commission, and that such efforts have not been successful. The Attorney General, therefore, does not have such information and he is unable to furnish the same to your honorable body."

The Board of Public Works now exhibits to the public all the information it has in its possession respecting the ownership of said bonds, stocks and certificates, which is all it has been enabled to obtain; and begins with the list reported by the Hon. Arthur I. Boreman, the first Governor of the State, to the Constitutional Convention of 1872. (see pp. 78-85 of the Journal of the Constitutional Convention of 1872,) as follows:

GOVERNOR BOREMAN'S LIST.

STATE OF WEST VIRGINIA,

EXECUTIVE DEPARTMENT,

WHEELING, February 22, 1869.

To the Senate and House of Delegates:

On the twenty-third day of January, 1868, the Legislature adopted the following resolution:

"Resolved by the Legislature of West Virginia:

"That the Governor of this State be requested to adopt such steps as he may deem proper and expedient to ascertain the amount of registered and coupon bonds of the State of Virginia, held and owned by citizens of the State of West Virginia, on the twentieth day of June, eighteen hundred and sixty-three, and still so held by citizens of this State, together with the names of the persons holding the same, and the several amounts held by them."

And on the sixth day of November, 1868, I sent a notice to, and had it published in, the newspapers in the different sections of the State, setting forth that on the first day of December, 1868, and thereafter until the first day of February, 1869, I should proceed to perform the duty devolved on the Governor by said resolution. A copy of which notice is hereto attached. I herewith transmit an account of the bonds presented to me, in pursuance of said resolution and notice, and which, in my judgment, are comprehended by the terms of the resolution. There were others presented, some of which were issued by Virginia during the rebellion, and others since, and others again, owned by persons who were not citizens of the state at the dates mentioned in the resolution, of which I have taken a description, but have not included them in the accompanying account because, in my opinion, they did not come within the terms of said resolution.

A. I. BOREMAN.

(Copy of Notice to Bondholders.)

STATE OF WEST VIRGINIA,

EXECUTIVE DEPARTMENT,

WHEELING, Nov. 6, 1868.

The undersigned will proceed, on the first day of December next, and thereafter until the first day of February, 1869, to perform the duty required of him by a resolution adopted by the Legislature of West Virginia, on the twenty-third day of January, 1868, which resolution is as follows:

“Resolved by the Legislature of West Virginia:

“That the Governor of this State be requested to adopt such steps as he may deem proper and expedient to ascertain the amount of registered and coupon bonds of the State of Virginia, held and owned by citizens of the State of West Virginia, on the twentieth day of June, eighteen hundred and sixty-three, and still so held by citizens of this State, together with the names of the persons holding the same, and the several amounts held by them.”

The undersigned deems it his duty to inspect each bond before he can report its existence, and, therefore, the persons who hold bonds which they wish reported, under the above resolution, are required to produce the same, before the undersigned, in order that such inspection may be had.

An affidavit of the claimant, or some one else, will also be re-

quired that the bonds were "held by such claimant on the twentieth day of June, 1863," and "were still so held" by him or her on the day the above resolution was adopted, to-wit: On the twenty-third day of January, 1868, and that such claimant was a citizen of West Virginia on both of the days mentioned.

A. I. BOREMAN, *Governor*.

LIST OF VIRGINIA COUPON BONDS AND CERTIFICATES OF REGISTERED STOCK HELD BY CITIZENS OF WEST VIRGINIA, AND WHICH HAVE BEEN PRESENTED AND INSPECTED BY THE GOVERNOR UNDER JOINT RESOLUTION NO. 2 OF THE LEGISLATURE, ADOPTED JANUARY 23, 1868.

Held and Owned by Hon. Charles J. Faulkner, of Martinsburg:

Sixteen coupon bonds of \$1,000 each, dated July 1, 1857, issued under act of General Assembly of May 25, 1852; interest at 6 per cent; payable semi-annually at New York, and paid up to and including July 1, 1868; redeemable after January 1, 1891; Nos. 10,412, 10,413, 10,416 to 10,429, both inclusive.....	\$16,000.00
One coupon bond of \$1,000, No. 9,185, dated July 1, 1854, redeemable after July 1, 1888; one coupon bond of \$1,000, No. 12,401, dated January 2, 1860, redeemable after January 1, 1894; two coupon bonds of \$1,000 each, Nos. 3,495 and 4,114, dated January 3, 1853, redeemable after January 1, 1887, and one coupon bond of \$1,000, No. 8,077, dated January 2, 1854, redeemable after July 1, 1887, all issued under act of General Assembly of May 25, 1852; interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, ...	5,000.00
One coupon bond of \$1,000, No. 2,635, and one coupon bond of \$500, No. 1,090, both dated July 1, 1851, and issued under act of General Assembly of March 29, 1851, redeemable after July 1, 1886; interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, ...	1,500.00
One certificate of registered stock for \$5,000, No. 1,453, dated January 26, 1847, interest at 6 per cent, payable semi-annually at the Treasury of Virginia, issued under act of General Assembly of March 21, 1837, providing for payment of subscription of State to James River and Kanawha Company; irredeemable for 20 years from November 20, 1838. Date to which interest was last paid unknown.....	5,000.00
One certificate of registered stock for \$100, No. 540, dated January 13, 1859, interest at 6 per cent, payable semi-annually at the Treasury of Virginia; issued under act of General Assembly of March 18, 1858, "for the relief of certain internal improvement companies and holders of debts on account of construction of State works, &c." Irredeemable for 34 years from January 1, 1858. Date to which interest was last paid unknown	100.00

Twenty-two coupons of \$10 each (\$220), payable at New York July 1, 1867; twenty-two coupons of \$10 each (\$220), payable at New York July 1, 1868; twenty-two coupons of \$10 each (\$220), payable at New York July 1, 1868; one coupon of \$5, payable at New York July 1, 1867; one coupon of \$5, payable at New York January 1, 1868, and one coupon of \$5 payable at New York July 1, 1858, all detached from bonds, ...	675.00
	\$28,275.00

Held by Robert Crangle, Esq., of Wheeling, as Trustee for Hite Opie, infant son of Julia C. Opie (late Julia C. Paull), wife of Hiram Opie:

One coupon bond of \$1,000, No. 10,467, dated May 1, 1858, redeemable after January 1, 1891; and two coupon bonds of \$1,000 each, Nos. 5,105 and 5,216, dated January 3, 1853, redeemable after January 1, 1887; all issued under act of General Assembly of May 25, 1852; interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1863, ...	\$3,000.00
One coupon bond of \$4,000, No. 133, dated July 1, 1851, redeemable after July 1, 1886, issued under act of General Assembly of March 29, 1851; interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1863, ...	1,000.00
	\$4,000.00

Held and Owned by Mrs. Mary A. Jamison, of Wheeling:

Two coupon bonds for \$500 each, and one coupon bond for \$1,000, dated July 1, 1851, redeemable after July 1, 1886, issued under act of General Assembly of March 29, 1851; interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, ...	\$2,000.00
One coupon bond for \$1,000, dated January 2, 1860, redeemable after January 1, 1894, issued under act of General Assembly of May 25, 1852; interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, ...	1,000.00
	\$3,000.00

Held by Mrs. Mary A. Jamison, of Wheeling, as Guardian for Antonia C., Jennie, Regina, Irene, Clara and Alphosus Jamison:

One coupon bond for \$1,000, dated May 4, 1858, redeemable after January 1, 1891, issued under act of General Assembly of May 25, 1852; interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1865, also July, 1867, and January 1868, coupons paid.....	\$1,000.00
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One coupon bond for \$500, dated July 1, 1851, redeemable after July 1, 1888, issued under act of General Assembly of March 30, 1851; interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, ...	500.00
	\$1,500.00

Held by Bishop R. V. Whelan, Alonzo Loring and Henry Moore, as Executors of the Estate of Philip Reilly, deceased, late of Ohio County:

One coupon bond for \$1,000, No. 6,867, dated August 4, 1853, redeemable after January 1, 1887; one coupon bond for \$1,000, No. 11,033, dated January 1, 1859, redeemable after January 1, 1893; two coupon bonds for \$1,000 each, Nos. 4,753 and 3,372, dated January 3, 1853, redeemable after January 1, 1887; two coupon bonds for \$1,000 each, Nos. 13,633 and 13,628, dated January, 1861; two coupon bonds for \$1,000 each, Nos. 6,866 and 7,072, dated August 4, 1853; all issued under act of General Assembly of May 25, 1852; interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1861; coupons for July, 1867, and January, 1868, also paid.....	\$8,000.00
Three coupon bonds for \$1,000 each, Nos. 314, 1,647 and 3,026, dated July 1, 1851, redeemable after July 1, 1886; all issued under act of General Assembly of March 29, 1851, interest at 6 per cent, payable semi-annually at New York, paid up to and including January 1, 1861. Coupons of July, 1867, and January, 1863, also paid	3,000.00
	\$11,000.00

Held and Owned by Samuel A. McMechen, of Hardy County:

One registered bond for \$1,500, No. 4,347, dated April 16, 1863, bearing 6 per cent interest per annum from January 1, 1863. Date to which interest was last paid unknown.....	\$1,500.00
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Held by the Regents of the West Virginia University:

One registered bond for \$1,358, dated April 2, 1841, issued to trustees of Monongalia Academy and transferred to Agricultural College, now West Virginia University, irredeemable for 20 years from December 16, 1840, interest at 6 per cent, payable semi-annually, and from January 1, 1841, paid to January 1, 1861, issued under act of General Assembly of March 30, 1837, entitled "An act to provide for the construction of a road from Ice's Ferry on Cheat River to the Pennsylvania line".....	\$1,358.00
One registered bond for \$1,644, dated April 24, 1849, issued to trustees of Monongalia Academy and transferred to Agricultural College, now West Virginia University; irredeemable	

for 20 years from November 3, 1848, interest at 6 per cent, payable semi-annually, from April 24, 1849, and paid to January 1, 1861; issued under act of General Assembly of January 17, 1848, entitled "An act to provide for the completion of the Southwestern Turnpike Road"..... 1,644.00

\$3,002.00

Held by George W. Jackson, of Lewis County:

One coupon bond for \$1,000, dated January 2, 1854, No. 8,389, with interest at 6 per cent, payable semi-annually and paid up to and including January 1, 1861..... \$1,000.00

One coupon bond for \$1,000, dated July 1, 1854, No. 8,733, with interest at 6 per cent, payable semi-annually and paid up to and including January 1, 1861, ... 1,000.00

\$2,000.00

Held by Richard P. Camden, of Lewis County:

One certificate of registered stock, No. 3,441, dated May 26, 1858, for \$2,300, issued to Richard P. Camden, with interest from January 1, 1858; one certificate of registered stock No. 556, dated January 18, 1859, for \$700, issued to Richard P. Camden, with interest from January 1, 1859, and one certificate of registered stock, No. 2,011, dated June 6, 1859 for \$1,300, issued to Richard P. Camden, with interest from January 1, 1859. Date to which interest was last paid unknown \$4,300.00

Held by Richard Marsteller, of Randolph County:

One registered bond for \$100, dated August 19, 1850,..... 100.00

Held by George H. Lee, of Harrison County:

One registered bond for \$4,000, No. 834, dated July 29, 1851, due 25 years from January 1, 1851; interest at 6 per cent, payable semi-annually, and paid to July 1, 1861, also 4 per cent of interest paid for the year 1867 \$4,000.00

One registered bond for \$1,500, No. 427, dated May 23, 1856, due 34 years from January 1, 1856; interest at 6 per cent, payable semi-annually, and paid to July 1, 1861, ... 1,500.00

One registered bond for \$500, No. 1,254, dated February 2, 1858, due 20 years from April 17, 1847; interest at 6 per cent, payable semi-annually, and paid to July 1, 1861, ... 500.00

Ten registered bonds for \$1,000 each, Nos. 145 to 154, both inclusive, dated July 11, 1860, due 24 years from January 1, 1860; interest at 6 per cent, payable semi-annually, and paid to July 1, 1861, ... 10,000.00

\$16,000.00

Held by John Cowan, of Ohio County:

One coupon bond for \$1,000, No. 10,295, dated July 1, 1854, redeemable after July 1, 1888; issued under act of General

Assembly of May 25, 1852, with interest at 6 per cent payable semi-annually at New York, and paid up to and including January 1, 1861, ...	\$1,000.00
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Held by William G. Brown, of Preston County:

Two coupon bonds for \$1,000 each, Nos. 10,539 and 10,540, dated May 20, 1858, with interest at 6 per cent. payable semi-annually and paid up to and including January 1, 1861; also 2 per cent of interest paid on July 1, 1867, and January 1, 1868, ...	\$2,000.00
One registered bond for \$300, dated February 15, 1861; one registered bond for \$1,400, dated February 14, 1860; one registered bond for \$700, dated February 14, 1860; one registered bond for \$1,000, dated March 23, 1858; and one registered bond for \$200, dated March 23, 1858; all bearing interest at 6 per cent, payable semi-annually and paid up to and including January 1, 1861, also 2 per cent of interest paid on July 1, 1867, and January 1, 1868, ...	3,600.00
	\$5,600.00

Held and Owned by Thomas Maslin, of Hardy County:

Four coupon bonds for \$1,000 each, Nos. 9,879, 9,932, 9,882 and 9,314, dated July 1, 1854, redeemable after July 1, 1888; issued under act of General Assembly of May 25, 1852, interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1868, ...	\$4,000.00
Two coupon bonds for \$1,000 each, Nos. 750 and 2,413, and two coupon bonds for \$500 each, Nos. 777 and 1,106, dated July 1, 1851, redeemable after July 1, 1886; issued under act of March 29, 1851; interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, ...	3,000.00
Two coupon bonds for \$1,000 each, Nos. 7,209 and 7,636, dated August 4, 1853, redeemable after January 1, 1887; one coupon bond for \$1,000, No. 4,963, dated January 3, 1853, redeemable after January 1, 1887; and one coupon bond for \$1,000, No. 8,053, dated January 2, 1854, redeemable after July 1, 1887; all issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, ...	4,000.00
One coupon bond for \$1,000, No. 4,982, dated January 3, 1853, redeemable after January 1, 1887; issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually, and paid up to and including January 1, 1868, ...	1,000.00
	\$12,000.00

Held by Thomas Maslin, as Trustee of Mrs. Rachel F. McNeil, of Hardy County:

Two coupon bonds for \$500 each, Nos. 942 and 944, dated July 1, 1851; redeemable after July 1, 1886; issued under act of March 29, 1851, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, ... \$1,000.00

Held by J. M. Hopewell, as Executor of the Estate of John Hopewell, deceased, of Hardy County:

Two coupon bonds for \$500 each, Nos. 1,030 and 1,190, dated July 1, 1851, redeemable after July 1, 1886; issued under act of March 29, 1851, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1866, ... \$1,000.00

Held by Miss Ann Seymour, of Hardy County:

One coupon bond for \$1,000, No. 5,561, dated August 4, 1853, redeemable after January 1, 1887; issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868,.... \$1,000.00

Held by Mrs. Sidney Seymour, of Hardy County:

One coupon bond for \$1,000, No. 6,567, dated August 4, 1853, redeemable after January 1, 1887, issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1868, .. \$1,000.00

Held by Isaac Chrisman, of Hardy County:

One coupon bond for \$1,000, No. 1,667, dated July 1, 1851, redeemable after July 1, 1886; issued under act of March 29, 1851, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1868, .. \$1,000.00

One coupon bond for \$1,000, No. 4,079, dated January 3, 1853, redeemable after January 1, 1887; issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1868, 1,000.00

\$2,000.00

Held by Hezekiah Clegget, of Hardy County:

One coupon bond for \$1,000, No. 6,931, dated August 4, 1853, redeemable after January 1, 1887; issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1867, .. \$1,000.00

One coupon bond for \$500, No. 260, dated July 1, 1851, redeemable after July 1, 1886; issued under act of March 29, 1851, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including July 1, 1867.... 500.00

\$1,500.00

Held by Mrs. Mary Ann Branson, of Hardy County:

One coupon bond for \$1,000, No. 966, dated July 1, 1851, redeemable after July 1, 1886; issued under act of March 29, 1851, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1868, ...	\$1,000.00
Two coupon bonds for \$1,000 each, Nos. 8,690 and 9,432, dated July 1, 1854, redeemable after July 1, 1888; issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1868, ...	2,000.00
	\$3,000.00

Held by Mrs. Sarah M. Inskeep, of Hardy County:

One coupon bond for \$1,000, No. 5,174, dated January 3, 1853, redeemable after January 1, 1887; issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1868, ...	\$1,000.00
One coupon bond for \$1,000, No. 8,089, dated January 2, 1854, redeemable after July 1, 1887, issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1868....	1,000.00
Two coupon bonds for \$1,000 each, Nos. 9,313 and 9,929, dated July 1, 1854, redeemable after July 1, 1888; issued under act of May 25, 1852, with interest at 6 per cent, payable semi-annually at New York, and paid up to and including January 1, 1868, ...	2,000.00
	\$4,000.00

Held by Lloyd Lowndes, of Clarksburg:

One coupon bond for \$1,000, No. 1,505, dated July 1, 1851, redeemable after July 1, 1886, interest paid to July 1, 1867, ...	\$1,000.00
Registered bond No. 1,292, dated September 19, 1856, for \$300; registered bond No. 2,003, dated January 26, 1857, for \$400; registered bond No. 2,042, dated February 2, 1857, for \$500; registered bond No. 265, dated October 27, 1858, for \$500; registered bond No. 1,433, dated November 25, 1858, for \$100, irredeemable for 20 years, and interest paid to January 1, 1861, ...	1,800.00
Bond of James River & Kanawha Co., No. 495, dated December 11, 1848, guaranteed by State of Virginia, interest paid to January, 1861, ...	1,000.00
	\$3,800.00

Held by Nathan Goff, Sen., of Clarksburg:

One registered bond, No. 517, for \$200, dated May 29, 1856, irredeemable for 34 years; interest at 6 per cent, payable semi-annually from May 1, 1856, and paid to January 1, 1861; issued under act of March 17, 1856, ... \$200.00

Held by John A. Truslow, of Kanawha County, as Commissioner for the infant heirs of Ezra Walker, deceased:

One registered bond for \$150, No. 247, dated January 8, 1856, issued to John A. Truslow, as commissioner for infant heirs of Ezra Walker, deceased, under act of January 11, 1837, authorizing subscription by State to Richmond & Petersburg Railroad Co., irredeemable for 20 years from June 11, 1838, and bearing interest at 6 per cent from January 1, 1856, interest paid up to January 1, 1862, ... \$150.00

One registered bond for \$330, No. 2,014, dated January 8, 1856, issued to same under acts of March 22, 1850, providing for the negotiation of loans for purposes of internal improvement, irredeemable for 25 years from January 1, 1851, and bearing interest from January 1, 1856, the same paid up to January 1, 1862..... 330.00

One registered bond for \$200, No. 3,018, dated January 8, 1856, issued to same under act of March 21, 1837, providing for payment of subscription of State to James River & Kanawha Company, irredeemable for 20 years from May 22, 1868, bearing interest from January 1, 1856, the same paid up to January 1, 1862, ... 200.00

One registered bond for \$1,000, No. 1,189, dated January 11, 1856, issued to same, under act of March 1, 1847, "authorizing Board of Public Works to purchase 2-5 of the stock of Alexandria Canal Company," irredeemable for 20 years from April 17, 1847, bearing interest from January 1, 1856, the same paid up to January 1, 1862, ... 1,000.00

One registered bond for \$1,200, No. 3,316, dated March 13, 1857, issued to same under act of March 21, 1837, "providing for payment of subscription of State to James River & Kanawha Company," irredeemable for 20 years from March 27, 1839, bearing interest from July 1, 1856, the same paid to January 1, 1862, ... 1,200.00

One registered bond for \$1,800, No. 2,099, dated April 23, 1856, issued to same under act of March 22, 1850, "providing for negotiation of loans for purposes of internal improvement," irredeemable for 25 years from January 1, 1851, bearing interest from January 1, 1856, the same paid up to January 1, 1862, ... 1,800.00

\$4,680.00

Held by Joshua Bodley, of Wheeling:

One certificate of registered stock, for \$700, dated January 15, 1858, issued to himself, bearing interest at 6 per cent, payable semi-annually at the Treasury of Virginia, from January 1, 1858, irredeemable for 34 years from January 1, 1856; date to which interest was last paid unknown..... \$700.00

Held by Lewis Summers, of Kanawha County, as Administrator de bonis non of Lewis Summers, deceased, late of Kanawha County:

One bond of the James River & Kanawha Company, for \$5,000, issued to George W. Summers, as executor of Lewis Summers, deceased, and guaranteed by the State of Virginia, No. 182, dated June 13, 1848, and bearing interest at 6 per cent, payable semi-annually at the office of the company, and paid up to January 1, 1861, redeemable after 30 years from January 1, 1840, ... \$5,000.00

Held by W. E. G. Gillison, of Kanawha County, as Administrator of Mary Jane Cox, deceased, late of Kanawha County:

One registered bond No. 1,968, for \$1,100, issued to Mary Jane Cox on the 16th of May, 1859; one registered bond No. 2,062, for \$500, issued to same on July 5, 1859; one certificate of registered stock No. 418, for \$1,000, issued to same July 5, 1859; and one certificate of registered stock No. 608, for \$400, issued to same May 16, 1859; all bearing interest at 6 per cent, payable semi-annually. Date to which interest was last paid unknown, ... \$3,000.00

Held by Edward B. Older, of Kanawha County:

One registered bond No. 1,525, for \$1,000, dated November 3, 1853, with interest at 6 per cent, payable semi-annually. Date to which interest was last paid unknown \$1,000.00

Held by Hon. James C. McGrew, in trust for William J. Stone of Preston County:

One registered bond for \$500, No. 3,543, dated April 17, 1861, issued to James C. McGrew, trustee for William J. Stone, with interest at 6 per cent, payable semi-annually; 2 per cent of interest paid July 1, 1867, and January 1, 1868, ... \$500.00

Held by William Adamson, of Pendleton County:

Bond issued to Franklin & Circleville Turnpike Company, dated November 20, 1860; interest from July 1, 1860, and redeemable January 1, 1894, for \$100. Nothing known as to what time interest was last paid \$100.00

Held by Hon. James H. Brown, of Kanawha County:

One bond for \$800, dated January 22, 1859, issued to James H. Brown, with interest from January 1, 1859; redeemable January 1, 1893. Date to which interest was last paid unknown..	\$800.00
One bond for \$700, dated October 25, 1860, issued to same, with interest from July 1, 1860, redeemable January 1, 1890. Date to which interest was last paid unknown.....	700.00
	\$1,500.00

Effort was made to ascertain which of the foregoing bonds in Governor Boreman's list had been funded under the said Funding Acts of 1871, 1879, 1882 and 1892. For this purpose Governor Boreman's list was furnished to the Second Auditor of Virginia at Richmond. Under date of June 22, 1911, that office furnished the list following, headed "Second Auditor's List," accompanied by a letter, in which it was stated:

"I traced the record of the bonds specified in the lists on pages 80 to 85 of the Journal of the Constitutional Convention, and have entered opposite each its history so far as it can be obtained. Several of the certificates I failed to locate for lack of sufficient data in your volume, to either start or guide me in tracing them. You will observe, however, that but few of them have not been funded since the publication of your list. I think it but reasonable to assume that those which I did not trace have, as others, been exchanged.

"No State record contains the addresses of the former holders of bonds as specified, and, therefore, I am unable to furnish them, but as almost the entire number of these securities have changed both hands and form, perhaps several times since the publication of your list, I suppose the names and localities of the 1861 holders would avail you nothing now."

SECOND AUDITOR'S LIST.

“List of Virginia Coupon Bonds and certificates of Registered stock held by citizens of West Virginia and which have been presented and inspected by the Governor under Joint Resolution No. 2 of the Legislature, adopted January 23, 1868.”

(From Journal Constitutional Convention of West Virginia, 1872.)

Date		No.	Coupon Bonds.		Act.
July	1 1858	10412 10413 10416 10429	16 at \$1000	\$16000	May 25, 1852 Funded Aug. 17, 1883. Tr. No. 309
July	1 1854	9185			
Jan.	2 1860	12401			
Jan.	3 1853	3495			
Jan.	3 1853	4104	1000	Ditto	Ditto
Jan.	2 1854	8079			
July	1 1853	2635			
July	1 1853	1090			
May	1 1858	10467	1000	May 25, 1852	Funded Jan. 4, 1883. Tr. No. 117
Jan.	3 1853	5105	1000	May 25, 1852	Funded April 22, 1884. Tr. No. 576
Jan.	3 1853	5316	1000	May 25, 1852	Funded Mar. 17, 1883. Tr. No. 165
July	1 1851	132	1000	Mar. 29, 1881	Cannot locate.

\$26,500

Registered Bonds.

Jan.	26 1847	1043	\$5000	Mar. 21, 1837	Seems to be for \$1500, Book A., p. 131.
Jan.	13 1859	540	100	Mar. 18, 1858	In name of C. J. Faulkner. Stock lost and funded on Certificate Aug. 25, 1873, Book C. p. 213.

\$5,100

(\$31,500—Total on p. 80 of volume mentioned above.)

Coupon Bonds

July	1 1851		\$ 500	Mar. 29, 1851	No numbers given and therefore cannot be traced.
July	1 1851		500	Mar. 29, 1851	
July	1 1851		1000	Mar. 29, 1851	
Jan.	2 1860		1000	May 25, 1852	
May	4 1858		1000	May 25, 1852	
July	1 1851		500	Mar. 30, 1851	Funded Nov. 9, 1885. Transaction No. 1187.
Aug.	4 1853	6867	1000	May 25, 1852	
Jan.	1 1859	11033	1000	May 25, 1852	
Jan.	3 1853	4753	1000	May 25, 1852	
Jan.	3 1853	3372	1000	May 25, 1852	
Jan.	1 1861	13633	1000	May 25, 1852	
Jan.	3 1861	13628	1000	May 25, 1852	
Aug.	4 1853	6866	1000	May 25, 1852	
Aug.	4 1853	7072	1000	May 25, 1852	
July	6 1851	314	1000	Mar. 29, 1851	
July	6 1851	1647	1000	Mar. 29, 1851	
July	6 1851	3026	1000	Mar. 29, 1851	

\$15,500

April	16 1863	4347	\$1500	No Act given.	
April	2 1841	2	1358	Mar. 30, 1837	Funded Jan. 23, 1872. B. 8, p. 254; A. p. 248.

April 21 1849 34 *1642 Jan. 17, 1848 Funded Jan. 23, 1872. B. 8, p. 254; A. p. 436.

\$4,500

*If number 1642.
(Total of page 81 of printed volume, \$20,000.)

Coupon Bonds.

Jan.	2 1854	8389	\$1000		Funded Nov. 1, 1873. B. No. 6, p. 295
July	1 1854	8733	1000		Funded Nov. 1, 1873. B. No. 6, p. 295
July	1 1854	10295	1000	May 25, 1852	Funded Mar. 9, 1877. B. No. 11, p. 41
May	20 1858	10539	1000		Funded July 18, 1871. B. No. 2, p. 128
May	20 1858	10540	1000		Funded July 18, 1871. B. No. 2, p. 128
Jan.	1 1854	9879	1000		Funded Jan. 5, 1872. B. No. 8, p. 172
Jan.	1 1854	9932	1000		Funded Jan. 5, 1872. B. No. 8, p. 172
Jan.	1 1854	9882	1000		Funded Jan. 5, 1872. B. No. 8, p. 172
Jan.	1 1854	9314	1000		Funded Jan. 5, 1872. B. No. 8, p. 172
			\$9,000		

Registered Bonds.

May	26 1858	3441	\$2300		} Funded June 26, 1883. Transaction No. 270.	
Jan.	18 1859	556	700			
Jan.	6 1859	2011	1300			
Aug.	19 1859		100		Funded June 12, 1874. B. No. 6, p. 482	
July	29 1851	834	4000		} Funded Sept. 5, 1871. Book I, p. 458.	
May	23 1856	427	1500			
Feb.	2 1858	1254	500			
July	11 1860	145	1000			
July	11 1860	146	1000			
July	11 1860	147	1000			
July	11 1860	148	1000			
July	11 1860	149	1000			
July	11 1860	150	1000			
July	11 1860	151	1000			
July	11 1860	152	1000			
July	11 1860	153	1000			
July	11 1860	154	1000			
Feb.	15 1861	----	300	Held by Wm. G. Brown		} Neither Acts nor name given, and therefore cannot be traced.
Feb.	14 1860	----	1400			
Feb.	14 1860	----	700			
Mar.	23 1858	----	1000			
Mar.	23 1858	----	200			

\$24,000

(Total of page 82 of printed volume, \$33,000.)

Coupon Bonds.

July	1 1851	750	\$1000	Act Mar. 29, 1851	Funded Jan. 5, 1872. B. No. 8, p. 175
July	1 1851	2413	1000		Funded Sept. 25, 1872. B. No. 4, p. 285
July	1 1851	777	500		Funded Act Feb. 26, 1877.
July	1 1851	1106	500		Funded Act Feb. 26, 1877.
Aug.	4 1853	7209	1000	May 25, 1852	Funded Nov. 10, 1871. B. No. 5, p. 275
Jan.	3 1853	7636	1000		Funded Act Feb. 26, 1879.
Jan.	3 1853	4963	1000		Funded Nov. 23, 1871. B. No. 5, p. 275
Jan.	2 1854	8053	1000		Funded Nov. 23, 1871. B. No. 5, p. 293
Jan.	3 1853	4982	1000		Funded Nov. 23, 1871. B. No. 5, p. 293
July	1 1851	942	500	Mar. 29, 1851	Funded Nov. 11, 1871. B. No. 5, p. 275

July	1	1851	944	500		Funded Nov. 11, 1871. B. No. 5, p. 275
July	1	1851	1030	500		Funded April 27, 1886. Tr. No. 1493.
July	1	1851	1190	500		Funded April 13, 1883. Tr. No. 196.
Aug.	4	1853	5561	1000	Act Mar. 25, 1852	Funded Jan. 8, 1872. B. No. 8, p. 187
Aug.	4	1853	6567	1000		Funded Act Feb. 26, 1877.
July	1	1851	1667	1000	Mar. 29, 1851	Funded April 23, 1884. Tr. No. 577.
Jan.	3	1853	4079	1000	May 25, 1852	Funded June 16, 1872. B. No. 8, p. 217
Aug.	4	1853	6931	1000		Funded July 27, 1872. B. No. 10, p. 288
July	1	1851	260	500	Mar. 29, 1851	Funded July 27, 1872. B. No. 10, p. 288

\$15,500

(Total of page 83 of printed volume, \$15,500.)

Coupon Bonds.

July	1	1851	966	\$1000	Act Mar. 29, 1851	Funded Jan. 12, 1872. B. No. 8, p. 192
July	1	1854	8690	1000	May 25, 1852	Funded Jan. 19, 1872. B. No. 8. p. 240
July	1	1854	9432	1000	"	Cancelled Act Feb. 26, 1877
Jan.	3	1853	5174	1000	"	Funded Act Jan. 19, 1872. B. No. 8, p. 240
Jan.	2	1854	8098	1000	"	Funded Act Jan. 18, 1872. B. No. 8, p. 240
July	1	1854	9313	1000	"	Funded Act Jan. 19, 1872. B. No. 8, p. 240
July	1	1854	9929	1000	"	Funded Act Jan. 19, 1872. B. No. 8, p. 240
July	1	1851	1505	1000		Funded Nov. 7, 1871. B. No. 9, p. 311

\$5,000

Registered Bonds.

Sept.	19	1856	1292	\$ 300		
Jan.	26	1857	2003	400		
Feb.	2	1857	2042	500		
Oct.	27	1858	265	500		
Nov.	25	1858	1433	100		
Dec.	11	1848	495	1000		
May	29	1856	517	200		
Jan.	8	1856	247	150	Act Jan. 17, 1837	Funded July 27, 1882. Trs. No. 2.
Jan.	8	1856	2014	330	Act Mar. 22, 1850	Funded July 27, 1882. Trs. No. 2.
Jan.	8	1856	3018	200	Act Mar. 21, 1837	Funded July 27, 1882. Trs. No. 2.

\$3,680

(Total of page 84 of printed volume, \$11,680.)

Registered Bonds.

Jan.	11	1856	1189	\$1000	Act Mar. 1, 1847	Funded Aug. 5, 1882. Tr. 26, p. 109.
Mar.	13	1857	3316	1200	Mar. 21, 1837	Funded July 27, 1882. Tr. No. 2.
April	23	1856	2099	1800	Mar. 22, 1850	Funded July 27, 1882. Tr. No. 2.
Jan.	15	1856	----	700		Held by Joshua Bodly, but no number or date of Act given.
June	13	1848	182	5000	No Act specified and therefore these bonds cannot, with certainty, be traced.	
May	16	1859	1968	1100		
May	5	1859	2062	500		
May	5	1859	418	1000		
May	16	1859	608	400		
Nov.	3	1853	1525	1000		
April	17	1861	3543	500		
Nov.	20	1860	----	100		
Jan.	22	1859	----	800		
Jan.	22	1859	----	700		

\$15,800

(Total of page 85 of printed volume, \$15,800.)

LIST OF PERSONS HOLDING VIRGINIA REGISTERED BONDS, AND RESIDING IN THE STATE OF WEST VIRGINIA.

Riddleberger Bonds.

Issued under Act of February 14, 1882.

<i>Name</i>	<i>Address</i>	<i>Amount</i>
Jno. N. Bell, Treas., Winchester Presbytery. Interest now payable to R. A. White, Treasurer,	Gerrardstown, W. Va.	\$1,200.00
John W. Bosworth,	Philippi, W. Va.	2,000.00
M. E. Bosworth,	Philippi, W. Va.	2,000.00
Mary S. Kellog, now Mrs. Mary S. K. Hunt, formerly of Sistersville, W. Va., but now of	Roanoke, Va., One Account " " " "	4,000.00 9,000.00 2,000.00
		\$15,000.00
Mrs. Anna I. Ryon,	Charleston, W. Va.,	1,200.00

Century Bonds.

Issued under Act of February 20, 1892.

J. W. Bosworth,	Philippi, W. Va.,	1,000.00
Mattie E. Bosworth,	Philippi, W. Va.,	2,000.00
Mrs. Mary S. K. Hunt, formerly of Sisters- ville, W. Va., but now of	Roanoke, Va., One Account " " "	3,000.00 500.00 9,000.00
		\$12,500.00
A. J. Willis,	Kearneyville, W. Va.,	200.00
Mrs. Lavinia Webb, formerly of Ona, W. Va., but now of	Bridgewater, Va.,	100.00
Colonial Casualty Co., of W. Va.,	Huntington, W. Va.,	5,000.00
	Riddleberger Bonds,	\$21,400.00
	Century Bonds,	20,000.00
	Total Riddleberger and Century Bonds,	\$42,200.00

Following is the list furnished by Brown Brothers & Company, the depositary, of May 2, 1911, referred to in the foregoing extracts from their letters:

BROWN BROTHERS & COMPANY'S LIST.

COPYIST'S CERTIFICATE.

STATE OF NEW YORK,

City and County of New York, ss:

ALBERT F. DAWSON, being duly sworn, deposes and says: That he is engaged in the business of a public stenographer, and has an office for the transaction of such business at No. 59 Wall Street, New York City. That he personally made comparison of the following 133 pages with the books of Messrs. Brown Brothers & Co., of No. 59 Wall Street, New York City, depository of the Virginia Deferred Certificates, so-called, kept by them in connection with the deposit of said certificates, and that the following said 133 pages are a true and correct transcript from said books showing the names in which said Virginia Deferred Certificates were issued, the number and amount of each certificate, the date of deposit with said depository and the number of the said depository receipt issued therefor respectively of all deposits of certificates down to and including April 18th, 1911, as the same appear upon said books.

A. F. DAWSON.

Sworn to before me this 2nd day of May, 1911.

(seal.)

ROBERT W. B. ELLIOTT,
Notary Public, New York County.

DEPOSITS OF VIRGINIA DEFERRED CERTIFICATES ISSUED UNDER ACTS
OF 1871, (MARCH 30), (PRINCIPAL AND INTEREST), RECEIVED.

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898				
Aug. 22	\$2,500.07	243	1538	Baltimore Equitable Society
(page 1)			(Signature of)	
			(2nd Auditor)	
			(missing)	
12	10,000.00	1	10521	J. S. Wells
15	1,950.00	2	2197	H. F. Atkinson
24	10,000.00	6	5641	McKim & Co.
24	5,550.67	7	332	John I. Lloyd, Exr.
24	3,526.67	8	3158	John Lindsley
25	5,000.00	36	9434	Davenport & Co.
25	200.00	37	5558	C. C. Muller
			(Not endorsed)	
26	63.33	203	5992	Orphans Home of the City of Brooklyn
			(Not endorsed)	
26	152.40	44	6005	Orphans Home of Brooklyn
			(Not endorsed)	
27	3,333.33	45	9377	Wm. P. Harvey
31	6,650.00	47	1309	G. T. Bonner & Co.
	4,233.33	48	1311	do
	1,000.00	49	3673	Chas. Hirst Huddersfield
	1,000.00	50	3672	do
	1,000.00	51	3671	do
	1,000.00	52	10407	W. F. Sebert
	1,000.00	53	10158	R. H. Maury & Co.
	1,000.00	54	10220	Jerome N. Bonaparte
	3,433.33	55	1968	James B. Brown
	2,182.93	56	5968	Isabella Higgins
	239.12	57	6090	J. & J. Benedict
	225.13	58	676	Louis Straller
	28.48	59	10705	J. B. Manning
	400.00	60	3479	A. Goettel & Co.
	5,000.00	61	5448	Whitehouse & Co.
	1,000.00	192	8242	Joseph H. Rieman
	2,000.00	63	5266	Tutien Nolthenius & DeHaan of Amsterdam
	1,000.00	64	11032	Wilson Colston Co.
	1,000.00	65	10185	J. B. Manning

DATE 1898	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
Aug. 31	\$ 1,000.00	66	6097	E. W. Skelton
	100.00	67	11023	John B. Manning
	100.00	68	1675	Vermilye & Co.
	100.00	69	10654	J. B. Manning
	100.00	70	1672	Vermilye & Co.
	100.00	71	10656	J. B. Manning
	1,000.00	72	1062	Stern Bros. of London
	1,000.00	73	1063	do
	1,000.00	74	1064	Stern Bros. of London
	1,000.00	75	1065	do
	1,000.00	76	1066	do
	1,000.00	77	1067	Stern Bros. of London
(page 2)				
	10,000.00	3317	8885	Robt. Garrett & Sons
	10,000.00	79	10132	R. H. Maury & Co.
	9,750.00	80	870	Lambert Suydam Jr.
	200.00	81	3087	do
	10,000.00	82	10795	Vermilye & Co.
	3,000.00	83	8438	Robt. Garrett & Sons
	7,017.12	84	3323	de Rothschild Bros. of Paris
	3,833.33	85	7521	Wm. Henry, 6 Foster Place, Dublin
	5,000.00	86	10125	Wilson Colston & Co.
	5,000.00	87	11002	I. & S. Wormser
	396.67	88	7424	De Rham & Co.
	396.67	89	7223	do
	396.67	90	7422	do
	400.00	91	9642	Wilson Colston & Co.
	383.33	92	4601	James Robb King & Co.
	10,000.00	93	10459	J. S. Wells
	5,000.00	94	8350	G. T. Bonner & Co.
	5,000.00	95	9651	G. T. Bonner & Co.
	419.99	96	11131	D. Fahnestock & Co.
	500.00	97	10446	J. B. Manning
	1,000.00	98	9267	Robt. Garrett & Sons
	450.48	99	10547	John B. Manning
	328.88	100	10423	Wm. H. Fisher
	9,373.33	101	8792	Robt. H. Garrett & Sons
	211.67	102	1187	Weisenfield & Co.
	1,916.67	103	3768	James Robb Kink & Co.
	5,000.00	104	8253	Frank W. Cassard
	5,000.00	105	7255	Chase & Higgonson
	5,850.00	106	2867	Maitland Phelps & Co.
	10,000.00	2210	8620	Robt. Garrett & Sons
	549.67	2207	2040	Geo. M. Potts of Friederick, Md.
	766.66	2208	4152	Geo. Harrison

DATE 1898		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
Aug.	31	\$ 5,000.00	2209	10585	J. Harmanas Fisher
		1,005.00	2215	3779	Maitland Phelps & Co. in trust
		8,720.00	2206	4718	Margaret E. Cuyler
		10,000.00	113	10719	J. B. Manning
		5,000.00	114	1205	E. D. Randolph & Co.
		3,103.33	115	2361	H. A. Cowison
		1,000.00	116	6649	J. B. Manning
		1,000.00	117	6688	J. B. Manning
		342.11	118	6632	John B. Manning
		1,200.00	119	2732	J. M. Weith & Arents
		1,916.66	120	8704	J. S. Kennedy & Co.
		3,710.00	121	1364	Thos. Nelson, Edinburg, Scotland
		36,800.00	122	1177	do
		3,337.00	123	8475	Henry E. Johnson
		1,000.00	124	7860	do
		1,000.00	125	7894	Louis McLane
		1,000.00	126	7893	do
		1,000.00	127	7892	do
		3,333.34	128	9375	J. G. Harvey
		1,500.00	129	8147	do
(page 3)		10,000.00	130	10475	J. S. Wells
		782.40	131	10557	Wilson Colston & Co.
		218.99	132	10947	J. B. Manning
		265.17	133	11056	Wm. Colston & Co.
		8,640.03	134	3007	Robert Read
		100.00	135	6211	Joseph H. Rieman
		1,000.00	136	5974	John B. Manning
		183.21	137	7090	Chas. P. Krauth
		1,000.00	138	2741	S. Stein
		4,096.67	139	2065	J. S. Morgan & Co., London
		1,000.00	140	10219	Jerome N. Bonaparte
		1,000.00	141	10561	J. S. Wells
		5,000.00	200	9837	John Bloodgood & Co.
		10,000.00	143	8809	Robert Garrett & Sons
		640.00	144	8340	Robt. Read of Cumberland, Md.
		85.00	145	3023	Robt. B. White
		1,000.00	146	3634	James Coates, Stockbroker, London
		1,000.00	147	10186	J. B. Manning
		1,000.00	148	10382	L. H. Niles
		5,000.00	149	10069	R. H. Maury & Co.
		1,000.00	150	10334	W. F. Sebert

DATE		AMOUNT	Our Ctf.		REGISTERED IN NAME
1898			Number	NUMBERS	
Aug.	31	\$ 1,000.00	151	3697	Charles Hirst, Huddersfield, Yorkshire, England
		1,000.00	152	3699	do
Sept.	2	1,000.00	153	10907	J. B. Manning
		5,000.00	154	10327	Vermilye & Co.
		5,000.00	155	10535	L. H. Niles
		5,000.00	156	11133	DeJonge & Co.
		5,000.00	3548	9871	John Bloodgood & Co.
		10,000.00	158	5337	J. B. Manning
		5,000.00	159	11138	DeJonge & Co.
		5,000.00	160	8060	Robt. Garrett & Sons
		5,000.00	161	7919	do
	6	396.67	170	3621	R. C. L. Moncure & W. P. Conway, Exrs. of Mary James
		5,000.00	171	11136	DeJonge & Co.
	8	352.45	172	6062	August Belmont & Co.
	9	1,059.40	173	2368	D. H. Miller, Trustee
		9,200.00	174	2345	do
		11,212.30	175	1640	R. S. Chew, Agent of Sir John F. Crampton of Great Britain
		10,453.53	176	2354	Wm. Graham
		5,000.00	177	3526	Edwd. H. Gillilan, Chiltен- ham, England
		5,000.00	178	3527	do
		1,000.00	179	1804	Edwd. H. Gillilan
		1,000.00	180	1805	do
		1,000.00	181	1806	do
		1,000.00	182	1807	do
		100.00	183	1796	do
		100.00	184	1797	do
		100.00	185	1798	do
		100.00	186	1799	do
		26.67	187	1795	do
		1,000.00	188	1800	do
(page 4)					
		1,000.00	189	1801	Edwd. H. Gillilan
		1,000.00	190	1802	do
		1,000.00	191	1803	do
	12	1,953.33	194	1928	Wm. H. Emory, Brevet Major Genl, U. S. A.
		5,000.00	201	6133	Robt. Garrett & Sons
		10,000.00	202	8808	do
	13	5,829.66	206	2329	Lewis M. Motter
		3,433.33	2694	1682	Henry R. Rathbone

DATE 1898	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
Sept. 13	\$ 555.56	208	10828	Anna Wilhemine Jaliany
				Diecke
	555.56	209	10435	Sophie Fredericke Freyl
	555.56	210	10822	do
	13,300.00	2585	6859	Man. Life Ins. Co. of N. Y.
14	10,000.00	223	11063	W. F. Sebert
	3,833.33	224	4895	R. Raphæl & Sons of London
	766.67	225	3767	James Robb King & Co.
	277.23	226	1876	August Wiggin
	3,900.00	227	139	John W. Hall
	133.33	228	7757	Edwd. Bromgoole Gdn of
				F. B. Harrison
	500.00	229	2605	Eliz. Jennings Exr. of Wm.
				Jennings, decd.
	600.00	230	4148	A. LeRossignol of Jersey C.
				J.
	1,000.00	231	9971	Bearer
	1,000.00	232	70245	Hamilton Blydenburgh
	1,000.00	233	10246	do
	1,000.00	234	10248	do
	1,000.00	235	10564	J. S. Wells
	1,000.00	236	10612	Arents & Young
	1,000.00	237	10946	J. B. Manning
	1,000.00	238	10247	Hamilton Blydenburgh
	10,000.00	239	10484	J. S. Wells
	10,000.00	240	8810	J. B. Manning
	10,000.00	241	8139	Wilson Colston & Co.
	10,000.00	242	10989	Lucien H. Niles
	5,000.00	244	5462	Whitehouse & Co.
	5,000.00	245	5463	do
	5,000.00	246	5970	John B. Manning
	5,000.00	247	5420	J. T. Wilson
	9,583.33	248	3589	Louisa Maria Marshall, Rec-
				tory Grove, Clipham, Eng.
16	516.67	249	1015	Carl Wolde of Bremen
	2,745.33	250	1955	Mrs. Averie S. Heireken of
				Bremen, Germany
	100.00	253	10645	J. B. Manning
	6.34	254	10661	do
	2,835.33	255	10601	I. M. Booker
	1,000.00	256	10413	Hamilton Blydenburgh
	666.66	257	9248	Knoblauch & Lichtenstein
	1,666.67	258	9570	Levy & Borg
	712.41	259	7905	C. H. Poor, Jr.
	56.67	260	7102	H. Amy & Co.
	823.33	261	5724	Madame Anna Bonnetain
				femme Saulnier
	1,419.69	262	5924	Mrs. M. S. Brooks

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Sept. 16	\$ 1,446.67	263	2757	James G. King's Sons
(page 5)	1,621.50	264	1908	Mrs. Lucy Deaton
	1,593.33	265	920	Jan Vander Hoop & Toon
	1,058.33	266	241	Geo. K. Sistare
	5,000.00	267	10961	DeJonge & Co.
	5,000.00	268	6125	Robt. Garrett & Sons
	5,000.00	269	6709	Ward & Co.
	55.85	270	4205	Fireman's Ins. Co. of Balto.
	500.00	3552	4206	do
	1,000.00	3551	4207	do
	5,000.00	3318	4208	do
	5,000.00	3319	4209	do
	5,000.00	3323	4210	do
	5,000.00	3321	4211	do
	3,290.60	277	4420	Henry Coles, Palisades, N.Y.
	5,000.00	287	2143	Foster & Co., of Cambridge in England
	10,000.00	297	9250	Robt. Garrett & Sons
	10,000.00	280	9149	do
	2,083.33	2686	3312	David M. Penne, Trustee u-w Roger B. Taney, decd.
19	1,000.00	285	10722	J. B. Manning
	1,000.00	286	3760	Wilson Colston & Co.
	5,000.00	287	11137	DeJonge & Co.
	10,000.00	288	10494	J. S. Wells
	5,000.00	289	10427	J. B. Manning
20	616.67	2695	2852	Mrs. H. M. Etting
	80.00	2696	2983	do
	3,666.67	2697	2853	Frank M. Etting, Trustee Mrs. H. M. Etting
	1,503.00	2698	2644	Mrs. H. M. Etting
	560.00	2699	2645	Frank M. Etting
	353.33	2700	2803	Alice C. Etting
21	920.33	296	2653	R. W. Hunter
	28,255.00	297	2582	The Eutaw Savings Bk. of Bates
	3,000.00	298	5286	H. F. Pickins
	1,413.33	2657	1583	B. H. Williams
	1,000.00	300	10631	S. S. Prince
	1,000.00	301	10630	do
	1,000.00	302	8879	Wilson Colston & Co.
	1,000.00	303	10633	S. S. Prince
	1,000.00	304	6138	Robert Garrett & Sons
	335.00	305	2494	Fredk Vietor and Achelis
	133.33	306	2336	do
	390.00	307	2335	do

		Our Ctf.		NUMBERS	REGISTERED IN NAME
DATE	AMOUNT	Number			
1898					
Sept. 22	2,012.67	312	4157†	Fannie L. Wellford	
23	1,516.66	313	8595	Mary E. Farnandid	
26	10,000.00	315	10467	J. S. Wells	
26	10,000.00	316	9134	William G. Harrison	
	193.33	317	21	M. Alice Lugenbeel of Alex- andria, Va.	
	5,000.00	318	3581	American Fire Ins. Co. of Baltimore	
27	2,166.66	2710	6447	Juliet Shackleford, Extx. of Lyne Shackleford	
	671.63	2711	1239	Thon.as R. Shackleford	
(page 6)	1,000.00	321	5975	John B. Manning	
	100.00	322	5976	do	
	5,000.00	323	6178	Lancaster & Co.	
	1,000.00	324	6181	Isaacs Taylor & Williams	
	1,000.00	325	6202	J. B. Manning	
	1,000.00	326	6203	do	
	5,000.00	327	6204	do	
	209.84	328	6265	John B. Manning	
	2,000.00	2706	7784	I. S. Inloes of Baltimore	
	4,000.00	330	4022	Geo. W. Riggs, Trustee of Jennie B. Davenport	
29	574.40	331	5682	Miss E. Woodbridge	
30	2,176.67	338	3159	D. Frelinghuysen	
	1,000.00	339	442	John B. Manning	
Oct. 3	3,900.00	2688	2342	Dr. Andrew Annan	
	1,560.00	341	2343	Robert L. Annan	
	396.66	3285	1774	Alexr. J. Bondurant Exr. Sam'l Ford	
4	559.66	343	7357	Clarence Gresham	
	135.00	344	4752	Mrs. Mary E. Penn	
	4,000.00	360	4405	Joseph Clement Juglar of Paris.	
	163.00	361	4404	do	
	5,000.00	362	11000	I. & S. Wormser	
	3,000.00	3484	10760	Ridgly Duvall Jr.	
	10,000.00	364	10460	J. S. Wells	
	10,000.00	365	10456	do	
	5,000.00	366	10345	John Malcolm of Belfast, Ireland	
	5,000.00	367	10104	R. H. Maury & Co.	
	5,000.00	368	9794	James S. Swan	
	10,000.00	369	9340	Robert Garrett & Sons	

† issued non neg. receipt.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Oct.	4	\$ 6,000.00	370	9118	Alfred Jenkins Jr., & Robt. H. Jenkins, Trustee
		10,000.00	371	8673	Robt. Garrett & Sons
		300.00	3483	8607	T. Scott & Son
		9,714.03	3485	8805	Robt. Garrett & Sons
		309.82	374	8685	do
		453.34	375	5325	Mrs. Ellen Catherine Hol- beck
		6,584.24	376	4589	Alexander H. Brown
		2,666.67	377	4520	Ellen Catharine Holbeck
		7,000.00	3484	3353	William H. Fogg
		1,000.00	379	1098	Stern Bros. of London
		1,000.00	380	1097	do
		1,000.00	381	1096	do
		5,000.00	382	8445	Richard Gwann
		5,000.00	383	11027	J. Harmanus Fisher & Sons
	5	100.00	386	1831	Geo. Elliott of N. Y. City
		100.00	“	1832	do
		100.00	“	1833	do
		100.00	“	1834	do
		100.00	“	1835	do
		500.00	“	1853	do
		500.00	“	1852	do
(page 7)					
		500.00	386	1851	George Elliott of New York City
		500.00	386	1850	do
		500.00	“	1849	do
		1,000.00	“	1848	do
		1,000.00	“	1847	do
		1,000.00	“	1846	do
		1,000.00	“	1845	do
		1,000.00	“	1844	do
		1,000.00	“	1843	do
		1,000.00	“	1842	do
		20,000.00	387	3898	Home Insurance Company of New York
		1,001.50	388	4596	J. B. Manning
		4,000.00	389	5001	Isaacs Taylor & Williams
		5,000.00	390	1931	John Cordner of Montreal, Canada
		1,000.00	391	271	John Elliott of New York
		1,000.00	“	272	do
		1,000.00	“	273	do
		1,000.00	“	275	do
		1,000.00	“	274	do

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898				
Oct.	1,000.00	391	276	John Elliott of New York
	1,000.00	"	279	do
	1,000.00	"	277	do
	1,000.00	"	278	do
	1,000.00	"	280	do
6	2,100.00	2708	6033	Austin Jenkins
	3,900.00	2709	1312	do
7	5,000.00	394	10900	J. D. Probst & Co.
	1,000.00	395	10868	Clarke, Dodge & Co.
8	\$ 625.00	3341	2015	Babet Fleischer, Gdn. of Marie Fleischer
	483.17	3342	2016	Babit Fleischer
	256.84	3343	2021	E. Fleischer
10	453.33	399	5324	Chandoe Wren Haskins
	1,078.26	400	10826	Florence Currie
11	3,000.00	406	3497	Thomas H. Dudley
	3,000.00	407	3498	do
	3,000.00	408	3499	do
	3,000.00	409	3500	do
	180.00	405	3496	do
	691.13	410	6959	Jno. W. Bell, Commis., etc.
	380.00	"	166	F. M. Baker and Andrew Johnston, Exrs. of Samuel P. Mitchell, deed.
	2,000.00	"	174	do
	500.00	"	890	William Bradshaw
	443.33	"	4514	Robert H. Corbett
	113.33	"	4049	Chas. M. Blackford, Adm. de bonis non with the will annexed of Edwin Mat- thews deed.
	1,333.33	"	4048	do
	333.33	"	4050	do
	9,418.88	"	381	James M. Cobb, President
(page 8)	2,703.33	"	4229	James Falshow of Edinburg
	5,000.00	"	3551	Lancaster Brown & Co.
	5,000.00	"	3552	do
	581.12	"	5059	J. B. Manning
	1,346.20	"	1007	John B. Oliver, of Nottoway Co., Va.
	793.33	"	940	do
	1,983.33	"	941	do
	1,586.66	"	942	do
	1,983.33	"	944	do
	396.67	"	945	do
	793.33	"	999	do

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Oct.	11	\$ 396.67	410	1000	Lucy Jane Tuggle, Exr. R. B. Tuggle
		1,190.00	“	1005	do
		2,819.60	“	1006	do
		1,190.00	“	997	do
		396.67	“	1003	do
		1,983.33	“	1004	do
		396.67	“	1001	do
		1,121.80	“	991	Lucy Jane Tuggle, Exr. R. B. Tuggle
		1,190.00	“	939	do
		1,000.00	“	993	do
		396.66	“	995	do
		1,156.66	“	996	do
		314.40	“	994	do
		1,000.00	“	989	do
		1,000.00	“	990	do
		1,000.00	“	992	do
		1,355.04	“	4390	Mrs. Guinetta W. Tyler
		140.60	“	7272	Lewis B. Williams
		740.00	“	7403	do
		74.33	“	251	John D. Waugh
		463.00	“	1568	Margaret Wright, Exs. of Jessie Wright, decd.
		243.60	“	805	do
		1,342.67	“	1570	do
		224.00	“	1569	do
	12	1,000.00	2589	8216	Rev. Alexander E. Gibson
		1,000.00	415	2237	J. & J. Higgin
		10,000.00	416	10969	L. H. Niles
	13	3,766.67	2720	3860	Moses Cohen
		50.00	2721	3859	Moses Cohen & Sons
		4,166.67	2701	4204	F. W. Bennett
	17	2,763.34	433	2790	James G. King's Sons
		13,416.66	434	2457	Widow W. Borski, of Am- sterdam
		28,750.00	435	2456	do
		1,006.66	436	1433	Philip Speyer & Co.
	18	5,000.00	437	11110	Wm. H. Fisher
		5,000.00	438	11059	J. B. Manning
		198.33	1888	68	H. Amy & Co.
		353.33	1889	54	do
		250.93	1890	3949	A. Goettel & Co.
		1,116.80	1891	5054	do
(page 9)		2,940.00	1892	5182	Thos. H. Carroll
		832.60	1893	6508	Kessler & Co.

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898				
Oct. 18	\$ 615.00	1894	6612	J. S. Kennedy & Co.
	282.27	1895	10595	H. Amy & Co.
	3.14	1896	10965	John B. Manning
	996.86	1897	10952	Charles Hazard
	871.52	1898	10636	S. S. Prince
	485.56	1899	4150	H. Lovington Rogers
	500.00	1900	10651	J. B. Manning
	25.40	1901	4280	H. Amy & Co.
	529.67	1902	1920	do
	1,000.00	1903	9998	Jno. B. Manning
	1,000.00	1904	1679	Vermilye & Co.
	1,000.00	1905	7181	Chase & Higginson
	1,000.00	1906	10905	J. B. Manning
	1,000.00	1907	7180	Chase & Higginson
	1,000.00	1908	9622	F. T. Redwood
	5,000.00	1909	10291	W. F. Sebert
	10,000.00	1910	8576	Robert Garrett & Sons
	8,000.00	1911	3212	Knickerbocker Life Ins. Co.
	6,000.00	1912	9117	Alfred Jenkins, Jr. and Robert H. Jenkins, Trus.
	4,982.67	440	6847	Elizabeth Allan, otherwise Miller, widow Elizabeth Galt Miller, wife of John Elphinston Livingstone, Margaret Miller, spinster, Mary Allan Miller, wife of James Douglass, all of Perth, N. B. and Robert Miller of 190 Avenue C in the City of New York, with benefit of survivor- ship.
	5,626.48	442	8897	Robert Garrett & Sons
	2,081.67	443	8864	do
	2,298.67	444	11120	Wilson Coltson & Co.
	500.00	445	10695	H. A. Orriek
	1,000.00	"	10567	J. S. Wells
	5,000.00	"	10607	William Howe
	5,000.00	"	10606	do
	5,000.00	"	9696	Harry A. Orriek
	4,000.00	"	8091	G. T. Bonner & Co.
	6,000.00	"	7992	G. T. Bonner
	2,000.00	"	5395	Brown Lancaster & Co.
	5,000.00	"	3923	do
	500.00	"	3571	A. Iselin & Co.
	1,000.00	"	10851	W. F. Sebert

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Oct. 18	\$ 1,000.00	445	2927	Stern Bros. of London
	1,000.00	"	2743	S. Stein
	1,000.00	"	2015	A. M. Proudft
	3,633.33	"	375	Lewisohn Brothers
	39,000.00	446	4180	The Peabody Institute of the City of Baltimore
(page 10)	258.33	447	3935	Thomas O. Walton
	20,590.00	2727	1657	John Gustav Kulenkampff Bremen
	3,294.40	2728	1964	Dr. H. W. Kulenkampff
	6,428.07	2729	5932	Mrs. M. H. Louise Von Lin- gen
	6,428.08	2730	5933	Miss Emilie G. Schumacher
	6,428.08	2731	5931	Senator Dr. George Schu- macher
	1,666.65	2732	10436	Anna Wilhelmine Juliana Denke
	1,098.13	454	1016	Bus, and de Critter of Rot- terdam
	2,000.00	455	10682	Oelrichs & Co.
	3,000.00	456	10681	do
	2,000.00	457	10683	do
	750.00	458	10685	do
	250.00	459	10686	do
	3,000.00	460	10680	do
	1.91	461	4564	do
20	1,120.00	462	4273	D. M. Penne, George S. Brown, Wm. H. Graham, John A. Brown and James Brown, Trustees of the es- tate of George S. Brown
	1,010.40	463	1537	James Mackubin
	1,733.33	"	1536	do
	700.33	"	1535	do
	150.00	"	1534	do
	1,386.66	"	1533	do
24	5,000.00	3028	11145	W. H. Lucke
	10,000.00	2431	9834	John B. Manning
	1,000.00	3024	9920	do
	1,000.00	3025	10411	do
	1,000.00	3026	3776	H. Amy & Co.
	2,000.00	3027	5840	Arents & Young
	1,030.64	2432	7317	Charles M. Clark
	2,645.72	2432	6729	Chas. J. Faulkner
	553.33	2432	3741	Loyd Loundes

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Oct. 24	\$ 333.33	2432	8489	Gilmore Dunlap & Co., of Cincinnati, Ohio
	1,333.33	2432	6820	Lewis Johnson & Co.
	186.26	2432	6801	Thomas Weaver
	333.33	2432	10249	J. B. Manning
	566.67	2432	3524	Thos. R. Dew, survg. exr. of Wm. Dew, decd. The interest to be paid to Susan F. Dew, during her life.
	801.80	2432	3553	Ellen C. Fitzhugh
	2,216.66	2432	1427	Sylvester M. Amy
	5,000.00	1878	6855	John Elliott
	5,000.00	1879	6854	do
	5,000.00	1880	7005	do
(page 11)	10,000.00	1881	7974	Robert Garrett & Sons
	1,000.00	1882	10205	J. B. Manning
	1,000.00	1883	10204	do
	1,000.00	1884	9819	John B. Manning
	1,000.00	1876	10608	J. B. Manning
	1,000.00	1877	6498	John B. Manning
	8,326.00	1885	8161	L. A. Brunnick of Dorpat
	5,000.00	1886	9714	Jno. B. Manning
	10,000.00	1887	2529	David Bareky Chapman of London
	383.33	470	8872	G. W. Russell
	10,000.00	2753	3330	J. J. Van Nostrand
	8,111.54	2752	2120	do
	5,000.00	2753	5376	Wilson Colston & Co.
	250.19	2751	3331	J. J. Van Nostrand
	5,000.00	2753	6055	Isaacs Taylor & Williams
	5,000.00	2753	5382	McKim & Co.
	5,285.00	2752	2173	Dulman & Scharff
	5,000.00	2753	1761	Isaacs Taylor & Williams
	500.00	2752	4681	Wilson Colston & Co.
	5,000.00	2753	5008	Lancaster & Co.
	4,500.00	2751	5007	do
	5,000.00	2753	1203	E. D. Randolph & Co.
	5,000.00	2753	1204	do
	10,000.00	2751	3940	James T. Soutter
	1,000.00	2751	5973	John B. Manning
	1,000.00	2753	5833	do
	1,725.00	2752	1713	N. Margons Sons
	2,989.60	2753	6136	Ward Campbell & Co.
	5,000.00	2753	2225	Isaacs Taylor & Williams
	.44	2753	6046	J. B. Manning
	5,000.00	2753	6334	A. J. Nicholson

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Oct.	5,000.00	2753	2226	Isaacs Taylor & Williams
	10,000.00	2753	6534	do
	5,000.00	2753	4881	Wilson Colston & Co.
	5,000.00	2753	6422	J. H. R. Nicholson
	5,000.00	2753	3077	Cammann & Co.
	5,000.00	2753	3076	do
28	1,950.00	646	3161	J. C. Lindsley
29	1,000.00	472	10196	F. T. Redwood
	10,000.00	473	10757	Chase & Higginson
	20,000.00	474	9726	Robert Garrett & Sons
31	3,333.33	475	9376	Mrs. H. C. Miller
	1,916.67	3353	5225	Henry Clews & Co.
	1,916.67	479	7520	Joseph Cuthbert
	5,000.00	480	6710	Ward & Co.
	383.33	481	3270	M. Morgan Sons
	235.00	652	2989	John Clough & Sons
	1,000.00	"	2994	do
	1,000.00	"	2995	do
31	1,000.00	652	2996	John Clough & Sons
	1,000.00	"	2997	do
	1,000.00	"	2998	do
	1,000.00	"	2999	do
	1,000.00	"	3000	do
(page 12)	1,000.00	"	3001	do
	1,000.00	"	3002	do
	1,000.00	"	3003	do
	1,000.00	"	3004	do
	1,000.00	"	3005	do
	1,000.00	"	3006	do
	1,250.00	"	4805	do
	2,668.33	849	3229	Rev. Charles Boileau Elliott
	5,750.00	484	4142	Col. F. West, Union Club, Pall Mall.
Nov. 1	383.33	485	4136	M. Morgans Sons
	766.66	"	4137	do
	1,011.67	486	3237	Henry Clews & Co.
	3,450.00	487	4972	Bruce & Symes of 37 Dame St. Dublin
	383.33	487	5547	do
	316.67	3072	9243	Julianna Smith
	1,666.67	3073	9231	do
	792.00	3047	5188	do
	666.66	631	7956	Lilliberry Riley Committee of Lucy Ann Roberts.
	180.00	"	7955	do

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	4	\$31,680.00	2527	1608	Treasurer of the Soldiers Home Washington, D. C.
		79,333.33	2528	1609	do
		5,000.00	503	10587	J. B. Manning
		5,000.00	504	10977	DeJonge & Co.
		13,590.00	3409	8564	Trustees of Phillips Acad- emy, Andover, Mass.
		277.53	706	1874	Augustus Wiggin
		2,578.33	705	3302	Katherine Gordon, 5 Wilton Crescent, Belgrave Sq., London, Spinster.
		2,066.66	698	1899	Major the Hon. Wm. de Pois Trench, 32 Hyde Park Gardens in the Co. of Middlesex.
		408.00	698	8100	do
		2,300.00	3378	3602	Wm. Duncan, 83 Gloucester Ter., Hyde Park, London
		1,150.00	3379	4987	do
		2,300.00	3378	7536	Wm. Duncan
		1,000.00	3379	1060	Stern Bros. of London
		1,000.00	3379	1053	Stern Bros. of London
		1,000.00	3379	10335	W. F. Sebert
		1,000.00	3379	10171	Jno. C. Williams, Cashr.
		2,000.00	3379	10192	do
		5,000.00	3379	10060	R. H. Maury & Co.
		10,000.00	3379	8602	Robert Garrett & Sons
		3,000.00	3379	10940	Thos. Branch & Co.
		1,000.00	510	1884	Geo. L. Henser
		1,000.00	"	10187	J. B. Manning
		2,000.00	"	9664	Wilson Colston & Co.
		5,000.00	"	9848	John Bloodgood & Co.
(page 13)		5,000.00	511	10154	R. H. Maury & Co.
		3,000.00	"	10362	Roche Coulter
		1,000.00	"	10310	R. S. Chamberlaine
		1,000.00	"	10309	do
		2,500.00	512	3232	John Thornley, Barrister at law, of London, 68 Chan- cery Lane, London.
		1,000.00	513	1165	Henry Edwards
		1,000.00	514	2203	John Hargraves
		1,000.00	"	2204	do
		1,000.00	"	2205	do
		1,000.00	"	2206	do
		1,000.00	"	2207	do
		100.00	"	2208	do

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Nov. 4	\$ 100.00	514	2209	John Hargraves
	100.00	"	2210	do
	100.00	"	2211	do
	10,000.00	515	9251	Robt. Garrett & Sons
	10,000.00	"	11091	Pearl & Co.
	5,000.00	"	3340	Robert B. Bowling
	9,360.00	"	1936	Jas. G. King's Sons
	10,000.00	"	8038	John B. Manning
	10,000.00	"	8785	Robert Garrett & Sons
	5,000.00	"	9954	R. H. Maury & Co.
	5,000.00	"	9881	John Bloodgood & Co.
	20,000.00	"	9725	Robert Garrett & Sons
	666.66	"	9797	James S. Swann
	10,000.00	"	9729	Robert Garrett & Sons
	25,000.00	"	9595	do
	50,000.00	"	9593	do
	168.83	"	5426	Austin Seay
	5,000.00	516	5568	Whitehouse & Co.
	13,300.00	"	4306	The New Jersey Mutual Life Insurance Co.
	5,000.00	"	4082	John Hanson Thomas, Trus- tee for Annie C. Thomas and her children.
	250.00	516	2084	Johannes Roth
	200.00	"	2682	A. Goettel & Co.
	1,533.33	"	2486	James Robb King & Co.
	21,029.00	"	2892	Dr. Thomas F. Andrews
	258.34	"	144	Moses Hecht
	4,000.00	"	11076	W. F. Sebert
	255.07	"	10913	W. S. Robinson & Newett, Belfast, Ireland.
	5,000.00	"	10999	I. & S. Wormser
	5,000.00	"	10852	W. S. Sebert
	5,000.00	"	10394	Wilson Colston & Co.
	468.70	"	10660	J. B. Manning
	5,000.00	"	10550	L. Von Hoffman & Co.
	5,000.00	"	10380	L. H. Niles
	5,000.00	"	10086	R. H. Maury & Co.
	1,557.39	"	3742†	Lloyd Loundes
	5,000.00	"	3872	D. H. Gordon
	1,000.00	"	3679	Chas. Hirst, Huddersfield, Yorkshire, England
(page 14)	333.33	517	3892	Richard Sanders
	1,000.00	"	1082	Stern Bros. of London

† Out of order, not reassigned.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	4	\$ 1,000.00	517	1081	Stern Bros. of London
		1,000.00	"	1058	do
		1,000.00	"	1084	do
		1,000.00	"	1083	do
		500.00	"	6458	George J. Appold
		500.00	"	6457	do
		500.00	"	6456	do
		500.00	"	6455	do
		1,000.00	"	6454	do
		1,000.00	"	6453	do
		1,000.00	"	6452	do
		5,000.00	"	6416	do
		5,000.00	"	6302	do
		5,000.00	"	6128	Robert Garrett & Sons
		5,000.00	"	6665	Helen Virginia Groome
		5,000.00	"	6128	Robert Garrett & Sons
		5,000.00	"	6325	do
		5,000.00	"	6415	George J. Appold
		5,000.00	518	10333	W. F. Sebert
		1,000.00	"	10023	Marx & Co.
		5,000.00	"	10211	Charles J. Bonaparte
		5,000.00	"	10210	do
		5,000.00	"	10080	R. H. Maury & Co.
		1,000.00	"	10022	Marx & Co.
		1,000.00	"	3333	Robt. B. Bolling
		1,000.00	"	1086	Stern Bros. of London
		1,000.00	518	1087	Stern Bros. of London
		1,000.00	"	1088	do
		1,000.00	"	1089	do
		1,000.00	"	1090	do
		1,000.00	"	1114	do
		1,000.00	"	1115	do
		5,000.00	519	9873	John Bloodgood & Co.
		5,000.00	"	10169	Francis White
		10,000.00	8273	3456	Robert Garrett & Sons
		10,000.00	8619	3457	do
		10,000.00	8801	3458	do
		5,000.00	10065	3459	R. H. Maury & Co.
		5,000.00	10066	3460	do
		1,000.00	9275	3461	John B. Manning
		5,000.00	9284	3462	Robert Garrett & Sons
		1,000.00	2738	3463	S. Stein
		10,000.00	10457	3464	J. S. Wells
		5,000.00	10290	3465	W. F. Sebert
		1,000.00	10354	3466	John Malcolm of Belfast, Ireland
		1,000.00	10356	3467	do
		3,000.00	10365	3468	F. T. Redwood

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898				
Nov. 4	\$10,000.00	10461	3469	J. S. Wells
	10,000.00	10495	3470	do
	10,000.00	10501	3471	do
	10,000.00	10525	3472	do
	10,000.00	10526	3473	do
	5,000.00	10536	3474	L. H. Niles
(page 14)	5,000.00	3475	10687	Wilson Colston & Co.
	5,000.00	3476	10838	L. H. Niles
	1,000.00	3477	10126	Wilson Colston & Co.
	5,000.00	3478	10336	W. F. Sebert
	5,000.00	3479	10910	W. A. Robinson & Newett, Belfast, Ireland
	116.67	3480	2176	W. N. Baldwin, Jr.
	1,346.00	3481	2810	D. R. Hagner
	10,000.00	2500	2531	David Barclay Chapman of London
	550.73	2499	5057	Director Cramer
	5,000.00	2501	5971	John B. Manning
	10,000.00	2502	9429	Davenport & Co.
	5,000.00	2501	9789	Wilson Colston & Co.
	5,000.00	2503	9757	R. A. Lancaster & Co.
	1,000.00	2499	9796	James S. Swan
	5,000.00	2503	9838	John Bloodgood & Co.
	5,000.00	2504	9874	do
	5,000.00	2504	9878	do
	5,000.00	2505	9884	John Bloodgood & Co.
	5,000.00	2505	9849	do
	5,000.00	2506	9948	R. H. Maury & Co.
	5,000.00	2506	8871	Robt. Garrett & Sons
	6,000.00	2507	8461	Joseph H. Reiman
	10,000.00	2508	8868	Ro. Garrett & Sons
	10,000.00	2509	8577	do
	10,000.00	2510	8437	do
	3,000.00	2511	8326	do
	10,000.00	2512	8612	do
	3,000.00	2513	8366	do
	5,000.00	3487	4182	George A. Washington
	1,000.00	3488	3974	John Elliott of New York
	2,000.00	3489	1651	Edward Fearney
	5,000.00	3490	10087	R. H. Maury & Co.
	5,000.00	3491	6663	Helen Virginia Groome
	2,000.00	3492	3037	Edward Fearney
	4,000.00	3493	6719	Wilson Colston & Co.
	1,000.00	3494	7847	D. Fahnestock & Co.
	5,000.00	3495	10085	R. H. Maury & Co.
	5,000.00	3496	5566	Whitehouse & Co.

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898				
Nov. 4	\$ 1,000.00	3497	6303	George J. Appold
	1,000.00	3498	6304	do
	1,000.00	3499	6305	do
	1,000.00	3500	6306	do
	1,000.00	3501	6307	do
	1,000.00	3502	1885	Geo. L. Heuser
	1,000.00	3503	1886	do
	1,000.00	3504	1887	do
	1,000.00	3358	1888	do
	1,000.00	3359	10408	W. F. Sebert
	5,000.00	"	10602	William Howe
	4,000.00	"	5377	Tutein Nolthenius and de Haan of Amsterdam
	766.67	523	3415	Wm. Mitchener, 2 Bucking- ham Villas, Crescent Road Kingston Hill.
(page 16)	5,000.00	524	5567	Whitehouse & Co.
	130.43	525	5540	Ira P. Pope
	1,000.00	526	3426	J. B. Manning
	1,400.00	"	3733	John B. Manning
	1,050.00	"	4982	A. Vanables & Co., London
	1,000.00	527	3639	James Coates, Stockbroker, London
	1,000.00	"	3638	do
	1,000.00	"	3637	do
	1,000.00	"	3636	do
	1,000.00	"	3635	do
	5,000.00	527	9897	John Bloodgood & Co.
	5,000.00	"	10739	L. H. Niles
	5,415.00	528	6958	A. Keyser & Co., of London
	383.33	529	3271	M. Morgans Sons
	1,916.66	"	2658	do
	7,666.67	3552	7481	Philip Woolley, London
	1,916.67	531	4892	R. Raphael & Sons, London
	12,705.80	532	2059	George Warde Norman of Bromley Common, Kent, England.
	10,000.00	3132	8246	Robert Garrett & Sons
	10,000.00	3123	8867	Robert Garrett & Sons
	10,000.00	3134	8869	Robert Garrett & Sons
	10,000.00	3125	9774	John B. Manning
	10,000.00	3126	9754	R. A. Lancaster & Co.
	5,000.00	534	10349	John Malcolm of Belfast, Ireland
	5,000.00	"	10351	do
	5,000.00	"	10350	do

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	4	\$ 1,990.00	535	625	Ellinger & Co.
		1,000.00	“	5135	John A. Hambleton & Co.
		5,000.00	“	5304	J. Wilcox Brown, Trustee
		2,000.00	“	5842	John B. Manning
		1,951.25	536	5818	Jean Baptiste Mauricede
				(Non Neg Reets)	Coetlosquet of Paris
		2,933.33	“	6137	(Non Neg Rep) do
		1,985.00	645	6559	O. D. Grosvenor, Rochester, N. Y.
		1,000.00	651	3708	“ Chas. Hirst, Huddersfield Yorkshire, England
		1,000.00	“	3709	“ do
		1,000.00	“	3710	do
		1,000.00	“	3711	“ do
		1,000.00	“	3712	“ do
		1,000.00	“	3713	“ do
		1,170.00	678	1223	Wm. H. Stokes
		13,000.00	655	8746	Robert Garrett & Sons
		500.00	2433	10885	Boully & Thompson, London
		500.00	2433	10884	do
		10,000.00	2434	8451	Robert Garrett & Sons
		10,000.00	2435	10458	J. S. Wells
		10,000.00	2436	10499	do
		1,000.00	2433	9709	John B. Manning
		5,000.00	2437	7920	Robert Garrett & Sons
		383.33	2438	4253	James Robb King & Co.
(page 17)		320.00	2439	6513	Elizabeth Clarkson Jay
		363.33	2440	8134	Lucy C. Crittenden
		6,000.00	2441	2901	Frederick Somers, etc. (see Ctf)
		800.00	2766	3392	Vane Vlie Wins & Van Lim- mik
		4,600.00	2767	3867	R. Raphael & Sons
		5,000.00	2433	3338	Robert B. Bolling
		2,765.33	2443	1866	Augustus Wiggin
		1,000.00	2433	1109	Stern Bros. of London
		1,000.00	2433	1080	do
		1,000.00	2433	1079	do
		510.33	1848	10765	Oelrichs & Co.
		383.33	1849	6776	J. S. Kennedy & Co.
		832.32	1850	11124	J. B. Manning
		426.67	1851	10943	Wm. Fisher & Sons, Balti- more
		1,000.00	1836	10804	J. B. Manning
		500.00	1837	10912	W. A. Robinson & Newett, Belfast, Ireland

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	4	\$ 500.00	1838	10541	L. H. Niles
		500.00	1852	10540	do
		3,000.00	1839	10358	R. L. Ross
		5,000.00	1840	10151	August I. Albet
		5,000.00	1841	10078	R. H. Maury & Co.
		5,000.00	1842	9806	Thomas C. Jenkins
		1,306.66	1853	9600	Robert Garrett & Sons
		10,000.00	1843	8663	do
		396.66	1854	8361	Wm. Gunn & Co. of Springfield, Mass.
		10,000.00	1844	7582	G. T. Bonner & Co.
		1,456.66	1855	7220	Thomas French Wallace of 87 St. James, London, Wine Merchant
		5,000.00	1845	5434	H. Amy & Co.
		2,254.63	1856	5229	Wm. Hoffman & Co.
		5,000.00	1846	5616	Wm. & John O'Brien
		133.33	1857	5789	J. R. Schuyler
		3,833.34	1858	5867	J. S. Kennedy & Co.
		7,666.67	1859	3739	James Robb Kink & Co.
		650.00	1860	3855	do
		766.67	1861	4976	Wm. E. Pratt of Bellgrave Square, Monks Tower, Co. Dublin
		3,450.00	1862	4314	Widow Tjienk & Co. Amsterdam
		575.00	1863	3858	James Robb King & Co.
		1,170.00	1864	3022	Richard Irvin & Co.
		383.33	1865	3824	H. T. Morgan & Co.
		3,737.93	1866	2565	Thomas W. L. Fauntleroy
		1,005.00	1867	2043	W. Stobart
		1,000.00	1847	464	Stern Bros. of London
		1,000.00	1868	465	do
		1,000.00	1869	466	do
		448.66	1870	85	Mary E. Crenshaw
		134.60	1871	87	Jane E. Crenshaw
		500.00	1872	888	D. H. Flack
		3,021.67	1873	1937	James G. King's Sons
		766.67	1874	4044	Francis O. Farrell of Thomas St., Dublin
21		5,000.00	664	11068	W. F. Sebert
(page 18)		10,000.00	"	8672	Robert Garrett & Sons
		5,000.00	"	5981	do
		3,000.00	665	5555	Thomas Crane
28		2,312.61	666	9521	Annie V. Hoffman

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
	2,220.00	667	2221	Mrs. Catharine E. Bouldin
		(Non Neg Rect)		
	1,000.00	668	1071	Stern Bros. of London
	1,000.00	"	1072	do
	1,000.00	"	1073	do
	1,621.90	669	6050	Peter V. Hagner for Aztec Club
	11,600.00	670	452	Rev. J. Turnbull Backus, D.D.
Dec. 6	25.00	2498	11077	W. F. Sebert
	1,000.00	2494	11039	L. H. Niles
	893.34	2961	10993	W. F. Sebert
	1,000.00	2494	10975	L. H. Niles
	1,000.00	2494	10809	do
	1,000.00	2494	10667	Edward Cohen
	1,000.00	2494	10668	do
	3,000.00	2494	9630	R. H. Maury & Co.
	200.00	2960	9138	W. T. & Jas. Scott Commit. tee of Sarah E. Read
	10,000.00	2495	8862	Ro. Garrett & Sons
	1,000.00	2494	8154	Johnston Brothers & Co.
	2,753.33	2960	6668	Helen Virginia Groome
	607.60	2498	5580	Baltzar & Taaks
	2,233.60	2498	5055	Théophile Garnot
	131.33	2496	3781	Mrs. Mary A. Craig
	221.67	2496	3488	Sebastian de Neufville of Paris
	140.00	2960	2893	Rev. C. W. Peterbridge
	1,000.00	2494	2821	Stern Bros. of London
	1,000.00	2826	1076	do
	1,000.00	2825	1092	do
	1,000.00	2825	1093	do
	1,000.00	2825	1094	do
	837.67	2498	2446	Sebastian de Neufville of Paris
	520.80	2498	1191	Hallgarten & Co.
	2,000.00	2825	1163	Joseph K. Roberts
Dec. 6	\$ 443.33	2498	4721	Margaret E. Cuyler
	7,056.67	2496	35	James Robb King & Co.
	5,103.33	2498	32	do
	233.33	2498	4342	R. R. Houston
	933.33	2496	3629	do
	1,666.67	2496	5159	Dr. John C. Wilson, Trustee for J. Vaden
	2,130.00	672	3428	Amos Birdsall of Tomis River, N. J.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Dec. 7	600.00	676	3508	D. B. Chapman
	10,000.00	"	2532	David Barclay Chapman of London
	1,000.00	"	2934	Stern Bros. of London
(page 19)	6,449.08	676	1210	Lawrence Morrissey
	1,031.48	"	659	John A. Hamilton
	1,000.00	"	11083	J. B. Manning
	56.67	810	5834	Phillip Haxall
	10,000.00	809	8738	Robert Garrett & Sons
	439.00	"	7452	Edward Urhlaub
	1,916.67	"	3603	Colonel Michie Forbes Gordon of Falkirk, North Br.
	1,341.67	"	4986	do
	2,668.33	"	4131	Samuel Kemp, Oriel House, Widcombe, Bath.
	4,982.67	"	3266	Ludlow Lawrence
	1,240.00	"	3102	D. C. List
	3,980.00	"	3100	do
	3,967.67	"	3101	do
	396.67	"	364	L. Von Hoffman & Co.
	10,000.00	809	2527	David Barclay Chapman, of London
	1,289.80	810	1870	James Robb King & Co.
	433.49	"	11046	R. H. Maury & Co.
	3,333.33	"	9402	Joseph Haslam, Statham Hill, London
	3,500.00	"	325	John B. Manning
	338.33	"	2395	Mary A. Jameson
	125.00	"	6737	do
9	731.66	717	8296	Martha Elizabeth Gore, of 26 Brunswick Sq., Brighton, Sussex, Spinster, the sole executrix of the Rt. Hon. Lady Grace Gore, late of the same place, deceased, the widow of the late Sir Ralph Gore, Baronet.
	1,000.00	"	8297	do
	1,000.00	717	8298	Martha Elizabeth Gore, of 26 Brunswick Sq., Brighton, Sussex, Spinster, the sole executrix of the Rt. Hon. Lady Grace Gore, late of the same place, deceased, the widow of the

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				late Sir Ralph Gore, Baro- net.
	1,000.00	717	8299	do
	1,000.00	"	8300	do
	1,000.00	"	8301	do
	1,000.00	"	8302	do
	1,000.00	"	8303	do
	5,000.00	"	8304	do
	5,000.00	"	8305	do
	643.56	"	8306	do
	1,000.00	"	8307	do
	1,000.00	"	8308	do
	1,000.00	"	8309	do
	1,000.00	734	4190	James Duncan
	1,000.00	"	4191	do
	1,000.00	735	9274	John B. Manning
	2,000.00	736	10414	Wm. H. Fisher
	7,517.33	829	2087	T. Spencer Nolan
10	5,000.00	737	10296	W. F. Sebert
	5,000.00	738	10877	Bouilly & Thompson, London
13	10,000.00	739	10481	J. S. Wells
(page 20)	5,000.00	740	10428	J. B. Manning
	5,000.00	741	10690	L. H. Niles
	266.67	742	1738	W. H. Baldwin, Jr.
	760.00	"	1721	E. H. Webster
	3,933.13	"	10322	Mrs. Amanda Billup
	5,000.00	744	10990	W. F. Sebert
	1,000.00	745	11082	J. B. Manning
	4,000.00	746	10170	F. T. Redwood
	5,000.00	743	10398	W. F. Sebert
	2,830.00	2687	1485	J. L. Billingslea
	1,729.53	748	654	Richard Norris
	5,000.00	749	11109	Wm. H. Fisher
	5,000.66	750	1507	Ezra Houck
16	3,000.00	792	2896	Gottfried Bachmann
	3,083.34	797	2	Edward Brandon
	4,334.13	794	92	Sarah L. Waters
	605.00	797	926	Jan Van der Hoop and Toon
	1,000.00	796	2430	Francis Leaver of Longnor Hall Parkridge, London
	1,000.00	"	2429	do
	1,000.00	796	2431	Francis Leaver of Longnor Hall Parkridge, London
	51.67	"	2433	do
	250.00	793	2961	Townsend Whelan & Co.

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898				
Dec. 16	\$ 5,273.13	797	9300	Robert Garrett & Sons
	6,000.00	795	8752	do
	287.13	793	9917	H. C. Hardy & Son
	923.93	"	3258	Martha S. Russell
	1,000.00	792	3681	Chas. Hirst, Huddersfield, Yorkshire, England
	1,000.00	"	3682	do
	1,000.00	796	3694	do
	1,000.00	"	3695	do
	1,000.00	792	3706	do
	1,041.67	797	3826	Alexander B. Haynes, Admt C. T. A.
	500.10	793	4500	J. B. Manning
	443.33	"	5698	Rev. R. S. Moran, D. D.
	1,000.00	795	6248	Robert Garrett & Sons
	3,000.00	"	6830	Amelia J. Engle, of Ger- mantown, Phila., Pa.
	2,683.33	794	7462	John K. Gillat & Co.
	1,916.67	"	7513	J. S. Kennedy & Co.
	3,949.60	796	7857	Robert Garrett & Sons
	2,000.00	792	8184	Joseph H. Rieman
	10,000.00	755	8584	Robert Garrett & Sons
	5,000.00	756	10163	J. L. Johnston
	2,000.00	792	10232	Wilson Colston & Co.
	5,000.00	756	10364	F. T. Redwood
	1,000.00	796	10402	W. F. Sebert
	10,000.00	758	10487	J. S. Wells
	100.00	793	10657	J. B. Manning
	500.00	"	10684	Oelrichs & Co.
	5,000.00	"	10861	Satterthwaite & Co.
	1,000.00	"	10889	Wilson Colston & Co.
	9,806.94	759	10896	J. H. Fisher
(page 21)				
	193.06	759	10898	J. H. Fisher
	388.54	794	10823	Arents & Young
	62.27	"	10949	Wm. H. Fisher
	1,000.00	793	11034	Wilson Colston & Co.
	396.66	794	11127	Mrs. Francis B. Johnson
	220.49	"	11036	Wilson Colston & Co.
	10,000.00	761	8104	Robert Garrett & Sons
17	2,000.00	3641	6214	Isaacs Taylor & Williams
	5,000.00	3642	3749	do
	8,000.00	3643	6209	J. J. Nicholson & Sons
Dec. 19	\$ 2,200.00	3529	5406	The Imperial Insurance Com- pany of London
	6,666.67	3530	4690	do

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898				
20	5,000.00	766	9875	John Bloodgood & Co.
	1,000.00	"	10830	W. F. Sebert
	1,000.00	"	6371	Robt. Garrett & Sons
	1,000.00	"	3667	John Kaye Clayton, West Yorkshire, England
	1,000.00	"	3666	do
	1,000.00	"	3393	Vant Vlie Wins & Van Limmik
	11,626.00	767	2234	The Penna Company for In- surance on Lives, and Granting Annuities, Trus- tees for B. L. and G. R. de Potestad, his wife, under deed of 9th Novem- ber, 1859.
21	10,000.00	768	8247	Robert Garrett & Sons
	5,000.00	769	9439	Davenport & Co.
	5,000.00	"	10859	Satterthwaite & Co.
	5,000.00	770	6164	Robert Garrett & Sons
	5,000.00	771	10063	R. H. Maury & Co.
	1,000.00	856	7072	Adolphus Keppelman
	1,000.00	"	11117	J. Harmanus Fisher & Son
	5,000.00	"	10773	Wilson Colston & Co.
	5,000.00	"	4068	Lancaster Brown & Co.
	1,000.00	"	10791	Alice L. Watson of Bridge- port, Conn.
	2,000.00	"	9599	Robert Garrett & Sons
	2,000.00	"	8563	do
	10,000.00	"	8610	do
	1,000.00	"	1057	Stern Bros. of London
	1,000.00	"	1056	do
	1,000.00	"	1055	do
	1,000.00	857	1054	do
22	4,733.33	773	4238	D. H. Miller & J. M. Brooks Executors of Gene Hare, deced.
	842.33	"	4321	D. H. Miller & J. M. Brooks Trustees for Wm. H. Hare
24	10,000.00	774	10452	J. S. Wells
	5,000.00	934	10794	Vermilye & Co.
	10,000.00	935	10718	J. B. Manning
	5,000.00	934	10216	Jerome N. Bonaparte
(page 22)	5,000.00	776	10098	R. H. Maury & Co.
	5,000.00	"	8103	Robert Garrett & Sons
27	5,000.00	777	11010	Lucien H. Niles
	5,000.00	"	3079	Cammann & Co.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Dec.	27	\$ 1,000.00	777	10546	John B. Manning
		1,000.00	"	10545	do
		1,000.00	"	5247	Julius S. Hitchcock
		1,000.00	"	9277	John B. Manning
		3,000.00	"	8146	Phillip Wolff
		1,000.00	"	2925	Stern Bros. of London
		1,000.00	"	3716	Chas. Hirst, Huddersfield, Yorkshire, England
		1,000.00	"	10404	W. F. Sebert
	28	2,261.66	785	6547	J. C. Farrar, C. D. Farrar, (Non Neg Ctf) and S. Owens, Exts. in trust for Mrs. Sarah S. Nicholson, u-w of Sam'l S. Farrar, deceased
		4,392.53	786	3105	Thomas W. Eliason
		1,000.00	787	4577	James P. Thomas & Sons
		100.00	"	2223	Isaacs Taylor & Williams
		100.00	"	535	Taussig Fisher & Co.
		100.00	"	530	do
		500.00	"	4682	Wilson Colston & Co.
		1,600.00	"	4905	J. B. Manning
		3,833.33	"	4350	William James Elger
		100.00	"	3036	Charles R. Hooff
		250.00	"	2895	Jacob Fussell
		166.67	"	1736	Samuel Hamilton
		600.00	"	1520	James Robb
		50.00	"	5137	J. B. Manning
		1,600.00	"	5193	do
	30	5,000.00	788	10359	R. L. Ross
		173.67	923	221	P. S. Marsh
		1,000.00	924	222	do
		1,000.00	925	223	do
		1,000.00	926	224	do
		1,000.00	927	225	do
		1,000.00	928	226	do
		1,000.00	929	227	do
		1,000.00	930	228	do
		1,000.00	931	229	do
		1,000.00	932	230	do
		5,000.00	933	2227	Isaacs Taylor & Williams
1899					
Jan.	5	1,000.00	790	4271	Charles Schroder
		1,000.00	"	1350	Charles B. Curtis
		2,000.00	"	4999	Wilson Colston & Co.
		1,000.00	"	1349	Charles B. Curtis
		5,000.00	"	4996	Wilson Colston & Co.
		5,000.00	"	4997	do

		Our Ctf.			
DATE	AMOUNT	Number	NUMBERS	REGISTERED IN NAME	
1899					
Jan. 7	\$ 1,079.40	791	7027	Andrew J. Steinman of Lancaster	
				L. Von Hoffman & Co.	
	1,000.00	798	10551	J. S. Wells	
	1,000.00	799	10570	Miss Louisa Emmerson	
12	1,214.16	2722	5548	John Emmerson, Exr. of	
	1,916.37	2723	5545	Arthur Emmerson, decd.	
(page 23)	5,000.00	3636	10925	Asiel & Co.	
	5,000.00	3637	10836	Hatch & Peters	
	10,000.00	3638	6012	Robert Garrett & Sons	
18	10,000.00	804	8615	Robert Garrett & Sons	
	96.67	805	2452	A. Goettel & Co.	
	300.00	805	2437	do	
27	10,000.00	811	10517	J. S. Wells	
31	1,956.67	814	849	E. J. Hawley & Co.	
Feb. 2	10,000.00	817	9811	R. A. Lancaster & Co.	
	10,000.00	818	10591	H. Amy & Co.	
Feb. 6	1,000.00	833	9907	Jno. B. Manning	
	1,000.00	"	6476	James Coates	
	1,000.00	834	5480	John B. Manning	
	1,000.00	"	2048	do	
	1,000.00	"	5481	do	
	2,000.00	"	5020	Lancaster & Company	
Feb. 7	4,681.35	2776	923	Sarah M. Hitchcock	
	55.00	2777	5154	H. Augustus Taylor	
	4,300.36	2778	7549	Thomas Hitchcock, N. Y.	
	5,000.00	2779	9742	R. H. Maury & Co.	
	5,000.00	2780	9895	John Bloodgood & Co.	
	5,000.00	2781	10075	R. H. Maury & & Co.	
	10,000.00	2782	10479	J. S. Wells	
	10,000.00	2783	10559	do	
	1,000.00	2784	10639	A. Keyser & Co., of London	
	1,000.00	2785	11028	J. Harmanus Fisher & Son	
	4,000.00	2786	10679	Oelrichs & Co.	
	1,000.00	836	11043	R. H. Maury & Co.	
	10,000.00	2820	10324	R. L. Chamberlaine	
	1,000.00	2821	10810	L. H. Niles	
	1,000.00	"	10811	do	
	1,000.00	"	10812	do	
	1,000.00	"	10813	do	
	1,000.00	"	10814	do	
	1,000.00	2821	10815	do	
	1,000.00	"	10816	do	
	1,000.00	"	10817	do	
	1,000.00	"	10818	do	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1899					
Feb.	7	\$ 1,000.00	2821	10819	do
		7,800.00	3088	6611	Rufus Story of New York
		2,216.33	3089	9241	Edward A. Abbott
		2,800.00	2823	2281	P. C. Harris, U. S. A.
		514.80	2824	10325	R. L. Chamberlaine
		500.00	"	2351	P. C. Harris, U. S. Army
	9	3,109.68	838	3495	William Kevan of New York
		2,655.00	1875	1269	George W. Gibson
		1,000.00	3204	2236	J. and J. Higgins
		7,143.06	841	323	Mrs. Louisa L. Loundes of Cumberland
	10	2,497.80	842	5947	Mr. Charles Leon Ernst Le Clere Marquis de Juigne
		2,048.57	843	303	R. C. W. Radford
		3,236.47	"	3040	Alfred T. Harris
(page 24)		333.33	843	7103	H. Amy & Co.
		4,398.33	"	6529	Rutten & Bonn
	15	3,833.33	845	4649	George Scholes
	16	10,000.00	846	8819	Robert Garrett & Sons
		10,000.00	"	8807	do
		5,000.00	"	10070	R. H. Maury & Co.
		2,163.70	"	10982	Ridgley Duvall, Jr.
		1,516.67	"	8596	Alvedia Griffith
		5,000.00	"	6170	Alexander Rieman
		10,000.00	"	5271	Leland Bro. & Company
		6,333.33	"	6539	Thomas Butler of Walwick Hall Northumberland, Es- quire, etc.
	17	1,597.11	850	4331	Chas. Carter, Administrator etc.
		800.00	"	6039	John Lyle, Adm. of Adeline Selden
		1,000.00	"	10577	J. S. Wells
		1,000.00	"	10576	do
		5,000.00	"	10077	R. H. Maury & Co.
		5,000.00	"	9783	John B. Manning
		1,000.00	"	1099	Stern Brothers of London
		1,647.20	"	1973	Jane T. Dorsey
		66.67	"	987	James Dunlop, Treasurer Male Orphan Society of Richmond
		2,896.00	"	1929	Richmond Male Orphan So- ciety
		3,833.33	847	2497	Charles Lings
		2,300.00	"	3173	J. Ritchie
		3,913.33	"	3172	F. Ritchie

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
Feb. 17	\$ 1,000.00	847	10281	W. F. Sebert
	1,000.00	"	10808	L. H. Niles
	358.33	"	10983	N. Thouron & Co.
	5,000.00	847	10998	I. & S. Wormser
	5,000.00	"	10894	C. L. Beard
	5,000.00	"	10853	Satterthwaite & Co., of London, England
	10,000.00	"	10513	J. S. Wells
	10,000.00	"	10472	do
	5,000.00	"	9879	John Bloodgood & Co.
	1,000.00	"	9196	Levy & Borg
	5,000.00	"	9925	John B. Manning
	10,000.00	848	9772	do
	1,000.00	"	8195	Johnston Brothers & Co.
	5,000.00	"	7945	Robert Benson & Co.
	15,333.33	"	6726	James G. King's Sons
	5,000.00	"	5938	J. B. Manning
	1,598.00	"	5727	Wm. Stewart, Trustee for S. Dunkee
	14,463.33	"	3597	Richard Sanders, Esq., of 73 Lancaster Gate, Hyde Park
	958.33	"	3298	Henry Clews & Co.
	1,000.00	"	2438	A. Goettel & Co.
	2,700.00	"	2781	Brown Bros. & Co.
(page 25)	232.11	848	878	Winslow Lanier & Co.
	1,725.00	"	689	Mrs. Caroline Herring
	2,800.00	"	542	James Robb King & Co.
	4,641.67	"	20	do
	10,000.00	851	9753	R. A. Lancaster & Co.
	10,000.00	"	10482	J. S. Wells
	10,000.00	"	5194	J. B. Manning
	10,000.00	852	10509	J. S. Wells
	10,000.00	"	10449	do
	716.67	853	191	Elizabeth Chamberlain
Mar. 2	780.00	854	4417	Catherine A. Kinger
7	1,916.66	860	5928	Mistress Widow Tjenk & Co., Amsterdam
	1,150.00	861	4625	Frederick Schuchardt & Sons
	1,583.33	862	4626	do
	5,000.00	882	1948	John K. Gilliatt & Co.
	2,000.00	"	3396	Wm. Fisher & Sons
	5,000.00	"	3750	Isaacs Taylor & Williams
	19,100.00	"	5012	J. S. Morgan & Co., 22 Old Broad St., London
	1,921.74	"	7077	Meldnoir Von der Fann of Munich

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
Mar. 7	\$ 2,666.66	882	8836	Abraham Morrell
	1,000.00	"	9443	J. B. Manning
	147.00	"	9444	do
	110.00	"	9460	do
	1,239.23	"	9474	do
	14,000.00	882	9626	William Fisher & Sons
	5,080.33	"	9628	H. A. Orrick
	11,733.34	937 Non	4	Thomas Foulke
		Neg Rf.		
	266.66	"	" 1763	do
10	1,269.80	863	507	Ella W. Dimmock
11	27,453.33	864	2023	W. L. Winans
14	10,000.00	865	7224	Philip Speyer & Co.
	10,000.00	866	5338	J. B. Manning
	10,000.00	867	10473	J. S. Wells
16	1,000.00	877	11033	Wilson Colston & Co.
17	10,000.00	879	6507	George J. Appold
18	5,000.00	3389	10092	R. H. Maury & Co.
	5,000.00	3390	10091	do
20	2,216.67	881	862	A. H. Grant
	1,000.00	"	1291	Hallgarten & Co.
	1,000.00	"	1293	do
	1,000.00	"	1290	do
	100.00	"	5152	Richard Irvin & Co.
	2,683.33	"	8313	S. G. & G. C. Ward
	337.99	"	7023	Lavina Cornick
	387.20	"	9623	Lancaster & Lucke
	385.00	"	9994	Charles H. Pearce
	484.65	"	11143	John H. Kahrs
	406.15	"	858	Sarah M. Hall
	762.74	2961	367	L. Von Hoffman & Co., in trust for J. B. Gross
(page 26)	542.40	2961	1974	Ellen Crowley
	4,249.10	2958	2123	W. H. F. Lee
	516.67	2960	2334	Fred'k Vietor & Achelis
	575.00	2960	4046	Thomas Aggs
	3,833.33	2960	5614	J. T. Mounsey, Esquire, of London
	600.00	2959	10644	J. B. Manning
	2,236.30	2961	11058	do
	1,000.00	2827	10647	H. Knickerbacker & Co.
	1,000.00	2737	11007	I. & S. Wormser
	1,940.00	990	8257	Isaac S. Twyman, James W. Twyman and Lewis B. Will iams, Trustees for Jenny, Amanda and Francis Ann

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				who are emancipated by the last will and testament of James Twyman, deceased, the interest to be paid to Isaac S. Twyman during his life.
Mar. 20	\$ 792.00	2958	3784	Sebastian de Neufville of Paris
	1,983.33	2960	3264	Count Ladislas Evariste Plater of Paris
(page 27)				
31	353.35	887	11126	J. B. Manning
	300.00	888	10902	D. Fahnestock & Co.
	10.87	889	10863	Satterthwaite & Co.
	10,000.00	890	10503	J. S. Wells
	10,000.00	891	10500	do
	10,000.00	892	10492	do
	2,000.00	893	6276	J. B. Manning
	1,000.00	894	9195	Levy & Borg
	333.33	895	2606	Elizabeth Jennings of Henrico
	406.66	896	1176	Wiesenfield & Co.
	567.75	897	7094	Fanny Lockett
	1,000.00	898	6856	John Elliott
	29.26	899	5017	Bolling, Selden
	6,133.33	900	3199	James Robb King & Co.
	5,000.00	901	7006	John Elliott
	1,000.00	902	299	John Elliott of New York
	1,000.00	903	298	do
	1,000.00	904	297	do
	1,000.00	905	296	do
	1,000.00	906	294	do
	1,000.00	907	293	do
	1,000.00	908	292	do
	1,000.00	909	291	do
	1,000.00	910	290	do
	1,000.00	911	289	do
	1,000.00	3553	288	do
	1,000.00	3300	287	do
	1,000.00	914	286	do
	1,000.00	916	284	do
	1,000.00	917	283	do
	1,000.00	918	282	do
	1,000.00	919	281	do
	1,916.67	920 Doc att.	4975	Francis O'Farrell of Thomas St. Dublin, Merchant
	1,000.00	921	295	John Elliott of New York

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
	1,983.33	922 Doe att.	2515	Miss Elen Chapman of Wan- steed, Essex, England
Apr. 5	10,000.00	936	11097	Pearl & Co.
13	5,490.66	2656	1629	John Little, of Washington, D. C.
24	7,733.33	939	1418	James Robb King & Co.
27	1,000.00	940	7377	Theodore Hart, of Montreal Canada.
	1,000.00	941	7378	do
Apr. 27	\$ 1,000.00	942	7379	Theodore Hart, of Mon- treal, Canada
	1,000.00	943	7380	do
	1,000.00	944	7381	do
	1,000.00	945	7382	do
	1,000.00	946	7383	do
	1,000.00	947	7384	do
	1,000.00	948	7385	do
	1,000.00	949	7386	do
	1,000.00	950	7387	do
(page 28)	1,000.00	951	7388	do
	50.00	952	7391	do
	413.33	953	7390	do
	583.33	954	7389	do
28	7,000.00		7714	Edward K. Rogers, Trustee, for the estate of John L. Rogers, deed., of Chicago, Illinois.
		978		
	1,467.56		7715	do
May 1	5,000.00		4225	International Insurance Company of New York
	5,000.00	980	3738	Isaacs Taylor & Williams
8	817.46	981	6876	Wm. P. Cole
22	3,250.60	982	86	J. M. Smith
25	1,860.03	988	4319	Georgiana Featherton Haugh.
	3,421.33	989	9956	Georgiana Featherton Haugh, Extre.
Sept. 21	5,000.00	993	6335	J. H. R. Nicholson
Oct. 3	7,300.00	996	3811	Edward Harriss, of 12 Cam- bridge Place, Bath, Esq.
	5,000.00	3301	7250	Chase & Higginson
	5,000.00	3302	9257	Wilson Colston & Co.
	1,000.00	3303	9820	John B. Manning
	1,000.00	3304	9821	do
	5,000.00	3305	9885	John Bloodgood & Co.
	5,000.00	3306	10093	R. H. Maury & Co.

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1899				
Oct. 3	\$ 5,000.00	2997	10337	William F. Sebert
	4,000.00	2298	10421	Vermilye & Co.
	6,000.00	3307	10424	Wm. H. Fisher
	10,000.00	3308	10486	J. S. Wells
	10,000.00	3309	10507	J. S. Wells
	10,000.00	3310	10558	J. S. Wells
	1,000.00	3311	10613	Arents & Young
	1,000.00	3312	10614	do
	1,000.00	1722	10615	do
	1,000.00	2484	11050	J. J. Nicholson & Sons
	833.33	2484	2373	H. Amy & Co.
	4,000.00	2484	9356	Wilson Colston & Co.
	4,166.67	2484	670	A. B. Sulzbacher
	10,000.00	3322	10448	J. S. Wells
	8,000.00	999	6798	Duncan Sherman & Co.
	1,200.00	1001	6799	do
9	17,898.67	1002	4499	Samuel Hairston, of Pittsylv- vania
10	666.67	1003	4691	The North British Mercan- tile Insurance Company of London and Edinburg.
	1,000.00		4692	do
	1,000.00		4693	do
	1,000.00		4694	do
	5,000.00		4695	do
	5,000.00		4696	do
	5,000.00		4697	do
12	762.00	1004	365	L. Von Hoffman & Co., in trust for A. H. Heyman & Co.
(page 29)	18,668.27	1005	1780	Edris Berkley
	5,499.66	3486	2155	Howland & Aspinwall
	11,500.00	1007	3459	James Robb King & Co.
	11,691.67	1008	4094	James Mercy, Esq., M. P. Gemmaster, Glasgow.
	1,983.33	1009	4833	L. Von Hoffman & Co. Trustees.
	1,150.00	1010	4912	James Robb King & Co.
	12,456.67	1011	6808	Reinhardt & Castendieck, Sewell of 29 Rood Lane, London, Esquire.
	38,548.33	1012	7897	David Clarke, of Park House Masclcsfield, England.
	160.87	1013	7898	do
	3,655.00	3482	8626	Charles Flower, of Theydon, Bois, Epping, Essex.

DATE		AMOUNT	Our Ctf.		REGISTERED IN NAME
			Number	NUMBERS	
1899					
Oct.	12	\$ 500.00	1015	9400	Joseph Haslam, Streathome Hill, London
		16,666.67	1016	9658	Hugh Lindsay, Antrobus, Esq., The Hon. Henry Dudley, Ryder and Robert Ruthven, Pym, Esq., all of 49 Strand, London, with receipt of survivorship.
		1,000.00	1017	10376	J. B. Manning
		1,000.00	1018	10539	L. H. Niles
		1,000.00	1019	10572	J. S. Wells
		1,443.17	1020	7315	Madl. Louise Pauline de Malet de Coupigny, femme de Mr. Julius Oudard Duquesne De Clochville de Paris.
		100.00	1021	4115	Mrs. Elizabeth F. Beadles.
		331.31	1022	4114	do
	17	1,000.00	1023	269	John Elliott of New York
		4,500.00		5543	J. B. Manning
		750.00		5683	do
		3,750.00		4400	Catherine Brown
	(12)	548.68	1028(Non)	398	Ann H. Haislip
	28	164.58	(Neg) 6998		Nannie D. B. Washington, Admx. with the will annexed of Geo. F. Washington, decd.
			1031	5649	do
		499.58			
	30	2,000.00	1032	6268	J. J. Alexander
		4,666.66	1033	6858	Baltzer & Taaks
		5,000.00	1034	9845	John Bloodgood & Co.
		5,000.00	1035	9846	do
		5,000.00	1036	10707	Wilson Colston & Co.
		1,533.33	3354	10726	A. Thouron & Co.
		3,466.67	3354	10733	Wilson Colston & Co.
Nov.	8	1,000.00	1039	471	Stern Brothers, London
	2	1,200.00	1072	2497	H. Amy & Co.
		10,000.00	1040	2026	John K. Gilliat & Co. of London
(page 30)		6,000.00	1041	9119	Alfred Jenkins, Jr., and Robert H. Jenkins, Trustee.
		2,000.00	1042	3398	Jas. S. Thomas & Son
		1,000.00	1043	3383	Abraham Morrell
		1,000.00	1044	3761	Wilson Colston & Co.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1899					
Nov.	2	\$ 5,000.00	1045	3873	D. H. Gordon
		433.33	1046	4189	James Duncan
		1,000.00	1047	4275	Brown, Lancaster & Co.
		5,000.00	1048	4347	Charles K. Hamilton
		2,363.57	1049	4593	John Hargraves, Jr.
		5,000.00	1050	5277	Leland Brothers & Co.
		5,000.00	1051	5386	Tutien Nolthenius and de Haan of Amsterdam
		208.33	1052	5589	H. B. Ferue
		4,340.23	1053	6557	Charles W. Reynolds
		5,000.00	1054	6596	Isaacs Taylor & Williams
		353.33	1055	3360	Washington Blythe
		148.80	1056	7353	Clarence Gusham
		44.00	1058	7758	Edward Dromgoole, Gdn. of F. B. Harrison
		3,000.00	1059	8210	Alexander Rieman
		2,000.00	1060	8754	G. T. Bonner & Co.
		10,000.00	1061	9508	Arents & Young
		5,000.00	1062	9641	Wilson Colston & Co.
		5,000.00	1063	9850	John Bloodgood & Co.
		1,111.26	1064	10136	R. H. Maury & Co.
		5,000.00	1065	10157	do
		5,000.00	1066	10231	R. A. Lindsay
		2,000.00	1067	10314	F. T. Redwood
		620.41	1068	10385	L. H. Niles
		1,000.00	1069	10936	John B. Manning
		5,000.00	1070	11053	Medwin & Clarke
	15	5,000.00	1073	8530	J. C. Nicodemus
		5,000.00	1074	* 9842	John Bloodgood & Co.
	17	5,000.00	3235	6124	Robert Garrett & Sons
		5,000.00	3236	6666	Helen Virginia Groome
		10,000.00	3237	9405	Robert Garrett & Sons
		5,000.00	3238	10772	Wilson Colston & Co.
	21	379.59	1076	10387	L. H. Niles
		1,000.00	1077	10579	J. S. Wells
		1,000.00	1078	11115	J. Harmanus Fisher & Son
		5,000.00	1079	11086	Satterthwaite & Co., of Lon- don
		1,000.00	1080	1059	Stern Brothers of London
		350.00	1081	2370	H. Amy & Co.
		170.00	3551	2425	do
		123.33	1083	3959	Morton Bliss & Co.
		5,000.00	1084	6369	Robert Garrett & Sons
		5,000.00	1085	8578	do
	28	6,666.67	3428	2089	Harrison, Robertson, Specil. Commr. Ct. Ct. etc.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1899					
		1,955.00	3429	2090	Helen V. Robertson
		86.99	3430	2092	H. Robertson, of Danville, Va.
(page 31)		5,000.00	3430	4412	H. Robertson
		238.00	3432	4477	Harrison Robertson
Dec.	1	2,956.57	1088	1820	Mrs. Maria C. French
		798.00	1089	2064	Miss Susan B. French
Nov.	27	5,000.00	1093	10971	L. H. Niles
		5,000.00	"	9868	John Bloodgood & Co.
		4,000.00		10619	Judah P. Currie
		1,000.00	1094	10632	S. S. Prince
		5,000.00		10972	L. H. Niles
	29	10,000.00	1095	11067	W. F. Sebert
	27	5,000.00	1222	7882	Sumner R. Stone
		5,000.00	1223	7881	do
		5,000.00	1224	7880	do
		5,000.00	1225	5362	do
		5,000.00	1226	5361	Sumner R. Stone
		18.35	1227	5363	do
		4,233.33	1228	4476	do
		5,000.00	1229	7883	do
		4,716.67	1097	3029	W. T. Hatch & Son
		1,153.56	1099	6834	Francis A. Provost, of Ger- mantown, Phila., Pa.
		1,153.55	1100	6833	Amelia J. Engle, of do
		7,666.67	1101	6544	J. S. Kennedy & Co.
		1,916.67	1102	7285	do
		2,834.23	1103	10114	L. H. Niles
Dec.	4	383.33	3635	4311	John D'Arcy
		1,586.67	2164	1149	Mrs. Helena Uhrland
		1,467.67	2172	720	James Gregory
		383.33	2173	4310	"The National Bank," London
	5	11,101.33	1105	1370	D. James
	6	5,000.00	1106	8811	J. B. Manning
		17,572.33	1107	3378	Mess. de Rothschild Bros. of Paris
		14,962.00	1108	3049	The Associated Firemen's Insurance Company of Baltimore.
		22,202.67	1109	2167	De Rham & Co.
		50,000.00	1110	9594	Robert Garrett & Sons
		10,000.00	1111	8794	do
		10,000.00	1112	8797	do
		10,000.00	1113	8798	do
		10,000.00	1114	8796	do

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1899				
Dec. 6	\$10,000.00	1115	9005	do
	10,000.00	1151	8572	do
	5,000.00	1152	6664	Helen Virginia Groome
	5,000.00	"	10862	Satterthwaite & Co.
	10,000.00	1153	8894	Robert Garrett & Sons
	10,000.00	1154	9432	Davenport & Co.
	1,000.00	1155	10629	S. S. Prince
	10,000.00	1156	5799	McKim & Co.
	1,000.00	1155	11040	L. H. Niles
	1,000.00	1155	10640	A. Keyser, of London
	10,000.00	1157	9712	John B. Manning
	1,000.00	1155	1074	Stern Brothers of London
	1,000.00	1155	1075	do
(page 32)				
	5,000.00	1155	6300	George J. Appold
	5,000.66	1158	11114	F. T. Redwood
	5,000.00	"	11119	Wilson Colston & Co.
	1,000.00	"	9179	do
	4,069.34	"	8108	Robert Garrett & Sons
	549.06	1158	368	L. Von Hoffman & Co., in trust for John W. Finke.
	373.33	"	4432	James Robb King & Co.
	906.20	"	10892	C. L. Beard
	88.90	"	2812	L. Von Hoffman & Co., in trust for Albert Erhard
	1,005.00	"	11140	Knouth, Nachard & Kuhne
	555.07	"	3452	A. Iselin & Co.
	517.23	"	8417	Robert Garrett & Sons
	758.33	"	8599	Charles H. G. Hungerford
	186.66	"	1872	Josiah Vaughan
	1,533.33	1118	4673	Thomas Harger
	5,000.00	1119	9305	Thos. C. Jenkins
	5,000.00	1120	9926	John B. Manning
	5,000.00	1121	10348	John Malcolm of Belfast, Scotland
	10,000.00	1122	10489	J. S. Wells
	1,000.00	1123	10807	L. H. Niles
	1,000.00	1124	10287	W. F. Sebert
	1,000.00	1125	10288	do
	1,000.00	1126	10289	do
	1,666.67	1127	696	Edward Brandon
	1,000.00	1128	1061	Stern Brothers of London
	1,000.00	1129	1110	do
	1,000.00	1130	2817	do
	1,000.00	1131	2818	do
	1,000.00	1132	2819	do

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1899				
Dec. 6	\$ 3,900.00	1133	2992	A. R. Van Ness
	1,000.00	1134	3674	Chas. Hirst, Huddersfield, Yorkshire, England
	1,000.00	1135	3675	do
	1,000.00	1136	3676	do
	1,000.00	1137	3677	do
	1,000.00	1138	3678	do
	9,970.00	Part of 2965	3818	Richd. Irvin & Co.
	5,770.00	1140	4836	Edward Roberts
	4,433.33	1141	5161	Turner Brothers
	1,000.00	1142	6460	James Coates
	1,000.00	1143	6461	do
	1,000.00	1144	6462	do
	1,000.00	1145	6463	do
	1,000.00	1146	6464	do
	50.00	Part of 2965	6579	J. S. Kennedy & Co.
	10,000.00	1148	7983	Robert Garrett & Son
	5,000.00	1149	8435	do
	5,000.00	1150	8764	Wilson Colston & Co.
	70.00	1160	1252	John Turpin
			(Non. Neg.)	
	476.00	1161	9	Julia E. Turpin, of Rich- mond
(page 33)	5,177.66	2526	4857	Jno. A. Murdith, etc.
	333.67	1162	3370	Miss C. C. Harrison
			(Non. Neg.)	
	952.20	2526	4445	B. P. Noland
	2,816.67	"	3744	James M. Rawlings
	6,307.80	"	6407	do
	1,000.00	"	3687	Chas. Hirst, Huddersfield, Yorkshire, England
	1,000.00	"	3686	do
	823.00	"	1871	Agustus Wiggin
	1,000.00	"	9802	John B. Manning
	1,000.00	"	9800	do
	5,000.00	"	10858	Satterthwaite & Co.
	1,000.00	"	10195	F. T. Redwood
	1,000.00	"	10020	Marx & Co.
	1,000.00	"	3669	Chas. Hirst, Huddersfield, Yorkshire, Eng.
	1,000.00	"	3685	do
	500.00	"	8393	James Lyon, Commr. for the Devises of Ann Ladd deceased, for the benefit of B. P. Ladd.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
Dec. 6	\$ 5,000.00	2524	5978	Tutein Nolthenius and de Haan of Amsterdam
	178.66	"	6881	Ellen F. Boyd, Extr'. of A. H. H. Boyd.
	316.67	"	7231	John A. Meredith, etc.
	5,000.00	"	10860	Satterthwaite & Co.
	10,000.00	1568	10782	John C. Williams, Cashr.
	10,000.00	"	10454	J. S. Wells
	5,000.00	"	10223	R. A. Lindsay
	5,000.00	"	10187	F. T. Redwood
	5,000.00	"	9866	John Bloodgood
	5,000.00	"	9775	John B. Manning
	10,000.00	1569	8889	Robert Garrett & Sons
	10,000.00	"	8793	do
	10,000.00	"	8277	do
	396.67	1568	8157	C. Von Berg of Oldenberg.
	83.33	"	7485	Chas. Page, U. S. Army
	1,500.00	"	7404	Lewis B. Williams, for parties out of the State.
	86.66	"	1020	John S. Gittings
	1,362.44	"	3863	do
	1,091.46	"	1473	J. W. Williams
	198.33	1568	2062	Martha E. Leitch
	5,000.00	1165	3925	Nolling Selden
	1,150.00	"	4594	Martin Mass & Co.
	466.67	"	5816	J. J. Barrill
	6,590.00	"	4973	Jane Catherine Gamble of 27 Russell Square, London, Spinster.
	958.33	"	7301	F. H. Clemow, of London
	3,371.67	"	4325	John Murdock, Trustee
	706.67	1159	421	Thomas Hinds
11	4,566.67	1179	1438	Joseph M. Barton, Trustee for Mrs. Caroline M. Barton.
(page 34)	4,106.33	1180	573	Edwd. Brandon & Company
	3,468.33	1181	1041	Tutein Nolthenius & de Haan
	710.86	1182	1043	Weisenfield & Co.
	1,000.00	1183	1106	Stern Brothers of London
	1,000.00	1184	1107	do
	1,000.00	1185	1108	do
	353.33	1186	1593	John A. Stuart
	198.33	1187	1591	do
	1,000.00	1188	2620	Stern Brothers of London
	1,000.00	1189	2621	do

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1899				
Dec. 11	\$ 1,000.00	1190	2622	do
	396.67	1191	3265	Margaret G. H. Moffet
	5,000.00	1192	3337	Robt. B. Bolling
	1,000.00	1193	3357	H. Blydenburgh
	2,108.33	1194	3493	Tutein Nolhenius & de Haan
	16,446.67	1195	3752	Maitland Phelps & Co., in trust
	5,993.35	1196	4592	James Clifton Brown
	1,916.67	1197	4991	James Robb King & Co.
	5,000.00	1198	5031	Tutein Nolthentius & de Haan
	5,000.00	1199	5437	H. Amy & Co.
	766.67	1200	5792	J. S. Kennedy & Co.
	5,000.00	1201	6347	Robert Garrett & Sons
	5,000.00	1202	6603	Tutein Nolthenius & de Haan of Amsterdam
	5,000.00	1203	6667	Helen Virginia Groome
	500.00	1204	7654	J. B. Manning
	376.66	1205	9139	W. T. & James Scott, Com- mittee of Sarah E. Reade
	10,000.00	1206	9596	Robert Garrett & Sons
	5,000.00	1207	10297	W. F. Sebert
	5,000.00	1208	9692	Thomas Branch & Co.
	5,000.00	1209	9945	R. H. Maury & Co.
	5,000.00	1210	10107	do
	5,000.00	1211	10331	W. F. Sebert
	5,000.00	1212	10544	John B. Manning
	1,000.00	1213	10568	J. S. Wells
	500.00	1214	10788	J. B. Manning
	1,000.00	1215	10880	Bouly & Thompson, of Lon- don
	1,000.00	1216	10881	do
	1,000.00	1217	10882	do
	1,000.00	1218	10883	do
	5,000.00	1219	10901	J. D. Probst & Co.
	500.00	1220	10959	L. H. Niles
	5,000.00	1221	11129	Hilmers McGowan & Co.
	5,000.00	1171	9847	John Bloodgood & Co.
	10,896.67	1172	2170	Robert Kirby
	10,000.00	1173	10542	John B. Manning
	5,000.00	1174	10222	R. A. Lindsay
	5,000.00	1175	10992	W. F. Sebert
	5,000.00	1176	11111	Ridgeley Duvall, Jr.
	5,000.00	1177	10603	William Howe
	2,430.00	1964	306	John S. Gittings
	779.75	1964	578	Ellen H. Smith

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
(page 35)	1,000.00	1963	1091	Stern Brothers of London
	686.93	1964	2445	J. M. Smith
	2,000.00	1962	4451	John S. Gittings & Co.
	5,558.33	1964	5050	Maitland Phelps & Co.
	5,000.00	1964	7932	Robert Garrett & Sons
	5,000.00	"	10067	R. H. Maury & Co.
	5,000.00	"	10071	R. H. Maury & Co.
	741.66	"	10221	Jerome N. Bonaparte
	1,000.00	1961	10906	J. B. Manning
	1,000.00	1960	11080	do
13	5,000.00	1230	5940	do
	5,000.00	1231	5980	Robert Garrett & Sons
	5,000.00	1232	9886	John Bloodgood & Co.
	2,856.67	1233	808	John W. Rowland
	216.67	1234	1599	Soutter & Co.
	1,299.41	1235	11078	D. Fahenstock & Co.
	3,570.00	1236	7935	S. G. & G. C. Ward
	76.67	1237	1669	Vermilye & Co.
	4,885.66	1238	1966	Edward Wood
	515.74	1239	3411	Jessie Slingoff, Trustee
	1,000.00	1240	3693	Charles Hirst, Huddersfield, Yorkshire, England
	123.00	1241	3778	H. Amy & Co.
	1,333.33	1242	7720	Middleton & Co.
	1,916.66	1243	8086	S. G. & G. C. Ward
	1,000.00	1244	8252	Richard Swan
	10,000.00	1245	9253	Robert Garrett & Sons
	6,114.07	1246	9765	do
	10,000.00	1247	10514	J. S. Wells
	3,000.00	1248	10799	R. H. Maury & Co.
	5,000.00	1249	10802	Vermilye & Co.
	5,000.00	1250	10981	Lawson, Crane & Douglas
	10,000.00	1251	11026	J. Harmanus Fisher & Son
	327.07	1252	11031	do
	5,000.00	1253	11071	W. F. Sebert
	10,000.00	1254	11090	Pearl & Co.
	3,066.67	1262	2962	Revd. William Naston
		(Non. Neg.)		
		(We agree to deliver		
		ctf. at option of holder.)		
20	3,093.33	1277	1633	R. J. Haden, Jr., and W. J.
				Watkins, in trust for Florence E. Hood (wife of John M. Hood) for her life, and at her death to her children.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
22	500.00	1278	475	Stern Brothers, London
	500.00	9	476	do
	500.00	1280	477	do
	500.00	1	1122	do
	500.00	2	1123	do
	1,000.00	3	1116	do
	1,000.00	4	1117	do
	1,000.00	5	1118	do
	1,000.00	6	1119	do
	1,000.00	7	1120	do
	1,000.00	8	1242	do
	1,000.00	9	1275	do
(page 36)				
	1,000.00	1290	1276	do
	1,000.00	91	1277	do
	1,000.00	2	1278	do
	1,000.00	3	1279	do
	1,000.00	4	1280	do
	1,000.00	5	1281	do
	500.00	6	1282	do
	1,000.00	7	2623	do
	1,000.00	8	2822	do
	1,000.00	9	2823	do
	1,000.00	1300	2834	do
	1,000.00	1	2835	do
	1,000.00	2	2836	do
	1,000.00	3	2837	do
	1,000.00	4	3113	do
	1,000.00	5	3114	do
	1,000.00	6	3115	Stern Brothers of London
	1,000.00	7	3116	do
	1,000.00	8	3117	do
	1,000.00	9	3118	do
	1,000.00	10	3119	do
	1,000.00	11	3120	do
	1,000.00	12	3121	do
	1,000.00	13	3122	do
	1,000.00	14	3123	do
	1,000.00	15	3124	do
	1,000.00	16	3125	do
	1,000.00	17	3126	do
	1,000.00	18	3127	do
	1,000.00	19	3128	do
	1,000.00	1320	3129	do
	1,000.00	1	3130	do
	1,000.00	2	3131	do

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
Dec. 22	\$ 1,000.00	3	3132	do
	1,000.00	4	3133	do
	1,000.00	5	3134	do
	1,000.00	6	3135	do
	1,000.00	7	4943	do
	1,000.00	8	4944	do
	1,000.00	9	4945	do
	1,000.00	1330	4946	do
	1,000.00	1	4947	do
	1,000.00	2	4948	do
	1,000.00	3	4949	do
	1,000.00	4	4950	do
	1,000.00	5	4951	do
	1,000.00	6	4952	do
	1,000.00	7	4953	do
	1,000.00	8	4954	do
	1,000.00	9	4955	do
	1,000.00	1340	4956	do
	1,000.00	1	4957	do
	1,000.00	2	4958	do
	1,000.00	3	4959	do
	1,000.00	4	4960	do
(page 37)	1,000.00	1345	4961	do
	1,000.00	6	4962	do
	1,000.00	7	4963	do
	1,000.00	8	6674	do
	1,000.00	9	6675	do
	1,000.00	1350	6676	do
	1,000.00	1	6677	do
	1,000.00	2	6678	do
	1,000.00	1353	6679	Stern Brothers of London
	1,000.00	1354	6680	do
	1,000.00	1355	6681	do
	10,000.00	1356	8434	Robert Garrett & Sons
	34.10	1358	3885	A. T. Lovett
	384.85	1359	1017	Arthur Kimber
	5,000.00	2984	7570	G. T. Bonner & Co.
	10,000.00	2985	8051	Robert Garrett & Sons
	10,000.00	2986	10968	L. H. Niles
26	1,570.33	1361	2436	Sally M. Hobson
	89.03	1362	483	Stern Brothers of London
	69.17	1363	1127	do
	90.00	1364	1287	do
	33.33	1365	2642	do
	71.67	1366	2842	do
	28.29	1367	3137	do

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
Dec. 26	\$ 75.00	3485	6686	do
	239.33	1369	6767	do
	100.00	1370	478	do
	100.00	1371	479	do
	100.00	1372	480	do
	100.00	1373	481	do
	100.00	1374	482	do
	100.00	1375	1124	do
	100.00	1376	1125	do
	100.00	1377	1126	do
	100.00	1378	1283	do
	100.00	1379	1284	do
	100.00	1380	1285	do
	100.00	1381	1286	do
	100.00	1382	3136	do
	100.00	1383	6682	do
	100.00	1384	6683	do
	100.00	1385	6684	do
	100.00	1386	6685	do
	100.00	1387	2639	do
	100.00	1388	2640	do
	100.00	1389	2641	do
	500.00	1390	1121	do
	1,000.00	1391	2562	do
	1,000.00	1392	2607	do
	1,000.00	1393	2608	do
	1,000.00	1394	2609	do
	1,000.00	1395	2610	do
	1,000.00	1396	2611	do
	1,000.00	1397	2612	do
(page 38)	1,000.00	1399	2613	do
	1,000.00	1400	2614	Stern Brothers of London
	1,000.00	1401	2615	do
	1,000.00	1402	2616	do
	1,000.00	1403	2617	do
	1,000.00	1404	2618	do
	1,000.00	1405	2619	do
	1,000.00	1406	2624	do
	1,000.00	1407	2625	do
	1,000.00	1408	2626	do
	1,000.00	1409	2627	do
	1,000.00	1410	2628	do
	1,000.00	1411	2629	do
	1,000.00	1412	2630	do
	1,000.00	1413	2631	do
	1,000.00	1414	2632	do

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME		
1899							
Dec.	22	\$ 1,000.00	1415	2633	do		
		1,000.00	1416	2634	do		
		1,000.00	1417	2635	do		
		1,000.00	1418	2636	do		
		1,000.00	1419	2637	do		
		1,000.00	1420	2638	do		
		28	5,000.00	1430	3736	Isaacs Taylor & Williams	
5,000.00	1429		11037	L. H. Niles			
1900							
Jan.	4	300.00	1431	1772	L. P. Stevens		
	22	1,033.33	1432	3011	James Robb King & Co.		
	30	5,000.00	1437	9911	John B. Manning		
		5,000.00	1437	9912	do		
		10,000.00	1438	9328	Robert Garrett & sons		
		10,000.00	1439	10465	J. S. Wells		
		10,000.00	1440	10785	Wilson Colston & Co.		
		10,000.00	3438	10518	J. S. Wells		
		5,000.00	3439	10745	William Alexander Smith & Co.		
		5,000.00	3440	10746	do		
		5,000.00	3441	10747	do		
		5,000.00	3442	10748	do		
		5,000.00	3436	10749	do		
		5,000.00	3437	10750	do		
		5,000.00	3143	10751	do		
		5,000.00	3143	10752	do		
		5,000.00	3144	10753	do		
		4,886.66	1443	10754	do		
		Feb.	6	8,133.33	1445	8659	Robert Garrett & Sons
				888.53	1446	9597	do
1,000.00	1447			8658	do		
1,886.68	1448			9770	do		
2,220.26	1449			7419	De Rham & Co.		
103.27	1450			11118	J. Harmanus Fisher & Son		
224.68	1451			8101	Robert Garrett & Son		
2,000.00	1452			7991	do		
1,000.00	1453			6015	do		
1,000.00	1454			9823	John B. Manning		
1,000.00	1455			9919	do		
1,000.00	1456			11116	J. Harmanus Fisher & Son		
5,000.00	1457			10774	Wilson Colston & Co.		
1,000.00	1458			10580	J. S. Wells		
1,000.00	1459			10569	J. S. Wells		
1,000.00	1460			10399	W. F. Sebert		
1,000.00	1461			10375	J. B. Manning		
1,000.00	1462			10374	do		
(page 39)							

DATE		AMOUNT	Our Ctf.	NUMBERS	REGISTERED IN NAME
1900					
Feb.	6	\$ 1,000.00	1463	10371	do
		6,000.00	1464	10361	J. J. Nicholson & Sons
		571.03	1465	10033	Elizabeth G. Whipple
		1,000.00	1466	9863	John B. Manning
		916.67	1467	9162	August Belmont & Co.
		5,666.66	1468	8823	Robert Garrett & Sons
		10,000.00	1469	8575	do
		10,000.00	1501	8322	Richard Swann
		396.67	1502	8269	Joel Garnett
		3,000.00	1503	8183	Alexander Rieman
		1,091.47	1504	4858	Messrs. N. M. Rothschild & Sons
		191.66	1505	4100	James Robb King & Co.
		1,000.00	1506	3680	Chas. Hirst, Huddersfield, Yorkshire, Eng.
		1,000.00	1507	2924	Stern Bros. of London
		100.00	3552	2841	do
		100.00	1509	2840	do
		100.00	1510	2839	do
		3,833.33	3551	2698	James G. King's Sons
		4,333.33	1512	1944	Hallgarten & Co.
		919.76	1513	1705	George Hamilton
		1,055.00	1514	1026	Henry Parnell Moore Despard, of London
		1,000.00	1515	463	Stern Brothers of London
		1,000.00	1516	462	do
		1,000.00	1517	461	do
		1,000.00	1518	460	do
		1,000.00	1519	459	do
	7	59.33	1520	2684	Sebastian de Nuefville of Paris
		320.00	1521	2663	do
		500.00	1522	2683	do
		500.00	1523	2800	do
		7,000.00	1532	4970	William Marshall of 19 Rectory Grove, Clapham
		5,000.00	Non-	9102	John K. Gilliat & Co.
		3,790.00	Neg.	8231	do
		750.00	Rect	9101	do
		166.66		8232	do
Feb.	19	799.33	1533	1615	Isabella Johnston
		84.66	1534	8892	do
		73.33	1535	1734	Peter Johnston
		5,000.00	1536	3339	Robt. B. Bolling
		5,000.00	1537	6120	Robert Garrett & Sons
		5,000.00	1538	6301	George J. Appold

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1900				
	5,000.00	1539	9795	James S. Swan
	5,000.00	1540	10113	Wilson Colston & Co.
Mar. 1	5,000.00	1543	10625	R. F. Tysen & Co.
3	2,347.50	2595	3586	Victor Clement
8	1,000.00	3572	3972	John Elliott of New York
(page 40)	10,000.00	3573	4184	George A. Washington
	1,000.00	3574	7165	Chase & Higginson
	1,000.00	3575	9720	John B. Manning
	1,000.00	3576	10277	W. F. Seibert
	1,000.00	3577	7845	D. Fahnestock & Co.
	1,000.00	3578	10556	Wilson Colston & Co.
	1,000.00	3579	10669	Edward Cohen
	1,000.00	3580	10671	F. T. Redwood
	1,000.00	3581	10672	do
	4,000.00	3582	10698	do
	4,000.00	3583	10761	Wilson Colston & Co.
	1,000.00	3584	10914	Morton Rose & Co., London
	1,000.00	3585	10571	J. S. Wells
	100.00	3586	10964	John B. Manning
	300.00	3587	10938	do
	600.00	3588	10735	Wilson Colston & Co.
	1,413.33	1545	3301	James Robb King & Co.
9	1,138.33	1549	30	James Robb King & Co.
	4,000.00	1550	1158	W. R. Nofsinger
	1,000.00	1551	1159	do
	3,066.67	1552	3766	James Robb King & Co.
	5,000.00	1553	8053	John B. Manning
	5,000.00	1554	8323	Richard Swann
	839.81	1555	8384	Richard Swann of Annapolis Md.
	10,000.00	1556	8327	Robert Garrett & Sons
	5,000.00	1557	8799	do
	10,000.00	1558	10593	H. Amy & Co.
	5,000.00	1559	10742	L. H. Niles
	10,000.00	1560	11107	Wm. H. Fisher
	10,000.00	2039	8870	Ro. Garrett & Sons
	2,618.34	2169	8158	Gladnitski & Van Henkelom of Amsterdam
	300.00	2170	874	John B. Manning
	1,000.00	2041	3969	John Elliott of New York
	50.00	2140	7031	H. Amy & Co.
	9,966.66	2041	7769	J. Davis
	10,000.00	2042	8613	Robert Garrett Sons
	1,000.00	2043	5385	Tutien Nolthenius and de Haan, of Amsterdam
	4,000.00	2037	8812	J. B. Manning

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1900				
	10,000.00	2035	10102	McKim & Co.
	5,000.00	2027	10171	Francis White
	5,000.00	2030	10326	Vermilye & Co.
	5,000.00	2036	10330	W. F. Seibert
	100.00	2170	2266	J. & J. Higgin
	1,000.00	2037	10573	J. S. Wells
	5,000.00	2038	10738	L. H. Niles
	5,000.00	2044	10741	L. H. Niles
	10,000.00	2045	10796	Vermilye & Co.
	10,000.00	2046	11065	W. F. Seibert
15	5,000.00	2047	9758	R. A. Lancaster & Co.
9	5,000.00	1562	10543	John B. Manning
	5,000.00	1562	9955	R. H. Maury & Co.
Mar. 16	5,000.00	1563	1950	John K. Gillat & Co.
(page 41)	5,000.00	"	10798	R. H. Maury & Co.
	8,100.00	"	10109	T. Scott & Son
	1,900.00	"	10029	do
	5,000.00	"	8787	Joseph James Taylor
	1,000.00	1564	1051	Stern Brothers of London
	1,000.00	"	2820	do
	1,000.00	"	3721	Chas. Hirst, Huddersfield, Yorkshire, England
	5,000.00	1565	10164	J. L. Johnston
	5,000.00	1566	10146	J. L. Johnston
23	738.33	3589	2524	Jennie B. Somerville
	6,609.22	3590	2762	Thomas Mailin
	1,916.67	3591	4130	William Clifford Tate, of Sligo, Ireland, Merchant.
	198.33	3592	6521	Julian Bueford
	600.00	3593	6844	Thos. H. Oliver
	10,000.00	3594	10123	Wilson Colston & Co.
	10,000.00	1647	10464	J. S. Wells
29	1,245.06	1570	6757	Mrs. Sarah Otterback
			(Non. Neg.)	
30	5,000.00	1571	5972	John B. Manning
	3,000.00	1572	8674	Robert Garrett & Sons
	1,000.00	"	9406	do
	1,000.00	"	10915	Morton Rose & Co., London
	5,000.00	1573	10691	Wilson Colston & Co.
April 6	1,300.00	2165	1030	John Hunter
	2,000.00	2169	1033	John Hunter
	2,000.00	2174	1023	do
	2,000.00	2165	1032	do
	2,000.00	2164	1022	do
	83.33	2164	6364	John Hunter, Jr., Commit- tee of Sarah L. Harris.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1900				
	333.33	2167	6357	do
	1,916.66	2164	1024	John Hunter
4	1,000.00	1575	8198	Johnston Brothers & Co.
	6,000.00	"	8347	Robert Garrett & Sons
	3,000.00	"	9150	Robt. Garrett Sons
	1,098.13	1576	7766	Moran Brothers
9	191.66	1588	2986	Rev. J. Boyle
	5,000.00	1581	9743	R. H. Maury & Co.
	4,500.00	1582	6673	Colonial Company, Limited, of London
	990.66	1582	5579	do
	5,480.93	1583	3503	Charlotte Lee and Edward Lee, with benefit of sur- vivorship.
	5,000.00	1584	3852	Citizens Fire Insurance Company of New York.
	10,000.00	1585	1940	John S. and Algernon Gil- liat, with benefit of sur- vivorship.
	3,000.00	1586	2408	A. Goettel & Co.
	10,000.00	1587	9060	G. P. Bonner & Co.
	5,000.00	1588	9961	R. H. Maury & Co.
	5,000.00	"	10096	do
16	5,000.00	1592	10072	R. H. Maury & Co.
(page 42)	5,000.00	1593	10124	Wilson Colston & Co.
	1,000.00	1594	3723	Chas. Hirst, Huddersfield, Yorkshire, England
	5,000.00	1595	5435	H. Amy & Co.
	5,000.00	1596	9535	Davenport & Co.
	5,000.00	1597	10604	William Howe
	249.40	1634	257	Wm. S. Burt
			(Non Neg.)	
	1,978.67	1635	214	Victoria H. Wilson
			(Non. Neg.)	
	628.46	1636	1921	Rev. Andrew Hart
	100.00	1637	2426	H. Amy & Co.
	396.67	1638	3103	Olivia McRae
	6,666.67	1639	4413	Samuel Watts, Exr. of B. W. Alford, decd.
	1,533.33	1599	5119	Lieutenant Colonel Andrew Aytoun, of Edinburg, Scotland.
	55.00	1600	538	Mrs. L. L. Loundes
	2,098.67	1601	1592	John S. Nichols, Jr.
	7,221.67	1602	1154	Jane E. Harper
	294.40	1603	2407	A. Goettel & Co.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1900					
April	16	\$ 5,000.00	1604	5319	Leland Bros. & Company
		5,000.00	1605	5570	Whitehouse & Co.
		5,000.00	1606	5569	do
		10,000.00	1607	6566	George J. Appold
		327.93	1608	9699	Jno. B. Manning
		5,000.00	1609	10184	J. B. Manning
		5,000.00	1610	10183	J. B. Manning
		5,000.00	1611	10182	J. B. Manning
		10,000.00	1612	10453	J. S. Wells
		10,000.00	1613	10466	J. S. Wells
		10,000.00	1614	10451	J. S. Wells
		10,000.00	1615	10450	J. S. Wells
		10,000.00	1616	10455	J. S. Wells
		10,000.00	1617	10471	J. S. Wells
		10,000.00	618	10474	J. S. Wells
		10,000.00	1619	10505	J. S. Wells
		1,400.00	3029	4279	H. Amy & Co.
		1,600.00	3030	7759	M. M. Harrison
		7,000.00	3031	8385	Richard Swann of Am.
		5,000.00	2691	10058	R. H. Maury & Co.
	23	5,000.00	1621	10379	L. H. Niles
		1,000.00	1622	10283	W. F. Sebert
		1,000.00	1623	10824	do
		1,000.00	1624	10285	do
		1,000.00	1625	10286	do
		1,000.00	1626	3715	Chas. Hirst, Huddersfield, Yorkshire, England.
		4,000.00	1627	9365	Wilson Colston & Co.
		1,000.00	1628	10282	W. F. Sebert
		5,000.00	1629	9901	John Bloodgood & Co.
		1,000.00	1630	8790	C. L. Beard
	30	1,000.00	1633	10338	W. F. Sebert
(page 43)		3,833.33	1640	680	Mutual Insurance Co., Fred erick, Md.
		1,694.00	1641	1505	Mutual Insurance Co., Fred erick, Md.
May	7	1,000.00	1642	3724	Chas. Hirst, Huddersfield, Yorkshire, England
		5,000.00	1643	9944	R. H. Maury & Co.
		4,000.00	1644	10911	W. A. Robinson & Newitt, Belfast, Ireland.
June	5	821.66	1646	7469	Elles & Co., London
	13	180.00	1651	4603	Maria B. Horton
		95.00	1652	4605	Tyler, Wrenn & Co.
	18	5,000.00	1657	6119	Robert Garrett Sons
		5,000.00	1658	9880	John Bloodgood & Co.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1900				
20	5,000.00	1659	6323	Robert Garrett Sons
	5,000.00	1660	9835	John Bloodgood & Co.
	5,000.00	1661	8324	Richard Swann
	5,000.00	1662	7253	Chase & Higginson
21	5,000.00	1723	1956	Francis Henry Mitchell of
		(O. K. In order England now. Ctf. not endorsed. P- atty filed with No. 1957.)		
	605.00	3352	919	Jan Van der Hoop & Took
	2,803.33	"	1039	Tutien Nolthenius & de Haan
	1,216.66	"	1732	do
	605.00	"	4528	V. Nellesteyn & Co.
	5,000.00	1668	5460	Whitehouse & Co.
	4,273.29	3352	9724	Robert Garrett Sons
	5,000.00	1670	9740	R. H. Maury & Co.
	5,000.00	1671	9943	do
	5,000.00	1672	10149	Augustus J. Albert
	1,000.00	1673	10203	J. B. Manning
	10,000.00	1674	10510	J. S. Wells
	1,000.00	1675	10581	J. S. Wells
	500.00	3352	10652	J. B. Manning
	5,000.00	1677	11075	W. F. Sebert
	1,000.00	1678	11081	J. B. Manning
	1,000.00	1679	3701	Chas. Hirst, Huddersfield, Yorkshire, England
25	10,000.00	1680	10477	J. S. Wells
	5,000.00	1681	10638	A. Keyser & Co., of London
27	8,881.07	1682	9967	W. Luttgen
	276.30	1683	9857	Wm. Fisher & Sons
	5,000.00	1684	9809	G. P. Bonner & Co.
	5,000.00	1685	9782	John B. Manning
	5,000.00	1686	9756	R. A. Lancaster & Co.
	5,000.00	1688	9704	John B. Manning
	5,000.00	1689	5879	Thomas C. Jenkins
	5,000.00	1690	9915	H. C. Hardy & Son
	4,000.00	1691	9171	Thomas C. Jenkins
	1,000.00	1692	9978	Bearer
	1,000.00	1693	9977	Bearer
	1,000.00	1694	9976	do
	1,000.00	1695	9975	do
	1,000.00	1696	9974	do
	1,000.00	1697	9973	do
	1,000.00	1698	9803	John B. Manning

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1900					
		177.80	1699	9268	Ann L. P. Wilson
		300.00	1700	10942	N. Thouron & Co., of Phila- delphia.
		5,000.00	1701	8290	Dr. W. G. Ridder
		5,000.00	1702	6451	George J. Appold
		5,000.00	1703	9640	Wilson Colston & Co.
		5,000.00	1704	8880	do
		1,000.00	1705	10562	J. S. Wells
		1,000.00	1706	11030	J. Harmanus Fisher & Son
		1,000.00	1707	11029	do
		5,000.00	1708	10235	Jno. C. Williams, Cashr.
		5,000.00	1709	10236	do
		10,000.00	1710	10303	do
July	3	793.33	1711	1564	J. C. Engelbrecht
		526.33	1712	1526	Mary W. Buckingham
		383.33	1713	4969	G. F. Curgemorn
		717.86	1714	1986	John A. Elliott, Exr. of Wm. Elliott, decd.
		524.20	1715	5041	Lester H. Davis
		6,516.67	1716	7497	John T. Mounsey
		5,000.00	1717	9815	Broun & Lounds
		5,000.00	1718	10073	R. H. Maury & Co.
		541.73	1719	10430	Robert L. Chamberlaine
	23	5,000.00	1724	2144	Foster & Company of Cam- bridge in England
		5,000.00	1725	10624	R. F. Tyson & Co.
	26	2,233.78	1726	697	Mrs. Elizabeth S. Pinchbeck
			(Non. Neg.)		
		274.00	1727	3168	William G. Spencer, Guard- ian of Whitfield Clary
			(Non. Neg.)		
		941.50	1728	11142	Edward Cohen
		5,000.00	1729	10293	W. F. Sebert
		14,950.00	1730	7537	James Spicer
		666.66	1731	7401	Robinson Chase & Co.
		16,000.00	1732	6392	Norfolk & Petersburg Rail- road Co.
	31	3,383.77	1733	10004	Ellen Swann
		571.03	1734	10035	do
	30	373.33	1735	4813	Thomas Charles March, of St. James Palace, London, Esquire.
Aug.	1	500.00	1736	11024	John B. Manning
		31.33	1737	11022	do
		593.33	1738	4024	Hallgarten & Co.
		13,876.67	1740	3460	John Marbury

DATE 1900	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
	253.33	1741	7269	Jacob W. Keeling, Gdn. of Jno. Keeling
	100.00	1742	1670	Vermilye & Co.
	10,728.33	1743	3051	Richard Swann, Annapolis, Md.
	500.00	1744	3572	A. Iselin & Co.
(page 45)	2,243.33	1745	4727	The Roanoke Navigation Co.
	1,179.37	1746	7437	F. Bridault
20	5,000.00	1747	9947	R. H. Maury & Co.
24	383.33	1748	1196	Ferdinand Latrobe
27	5,000.00	3550	10329	W. F. Sebert
28	1,000.00	1750	11025	John B. Manning
29	10,000.00	1754	10491	J. S. Wells
Sept. 7	1,500.00	2305	2569	J. B. Manning
	1,000.00	2306	2558	do
	1,000.00	1767	3707	Chas. Hirst, Huddersfield, Yorkshire, England
	1,000.00	1767	3720	do
	1,000.00	1767	3725	do
	1,000.00	1767	9861	Thomas C. Jenkins
	1,000.00	1767	9937	Campbell & Schoolcraft.
	1,000.00	1769	10025	Marx & Co.
	1,000.00	1769	10026	Marx & Co.
	1,000.00	1769	10027	do
	2,000.00	1769	10084	R. H. Maury & Co.
	5,000.00	1768	10148	J. L. Johnston
14	640.01	1770	8339	Sarah A. C. Welch of Georgetown, D. C.
26	5,000.00	1775	10714	L. H. Niles
Oct. 9	2,279.16	1780	4590	Thomas Hargreaves
	3,850.00	1781	2673	Charles Lings
	383.33	1782	3024	Richard Irvin & Co.
	5,000.00	1783	3422	Hugh Sisson
	5,000.00	1784	7140	G. T. Bonner & Co.
	5,000.00	1785	9883	John Bloodgood & Co.
	5,000.00	1786	10105	R. H. Maury & Co.
	3,500.00	1787	10110	G. T. Redwood
	5,000.00	1788	10332	W. F. Sebert
	10,000.00	1789	10516	J. S. Wells
	5,000.00	1790	10974	L. H. Niles
10	2,762.00	2164	2381	Henry Clews & Co.
Oct. 11	\$ 3,500.00	1792	2474	Wm. L. Cole
	1,000.00	1793	3783	Mrs. Mary A. Craig
	5,000.00	1794	5380	Brown, Lancaster & Co.
	500.00	1795	10869	L. H. Niles

		Our Ctf.			
DATE	AMOUNT	Number	NUMBERS	REGISTERED IN NAME	
1900					
	24	2,221.67	1796	4336	A. F. Muller
Nov.	1	12,662.00	1797	857	Georgia Home Ins. Co., of Columbus, Ga.
Oct.	30	50.00	1798	2082	John Mills
Nov.	17	9,633.33	1812	2009	James Murray
		9,000.00	1813	3862	do
	28	4,105.73	1814	7833	Charles Ludlam
		1,000.00	1815	3963	Morton Bliss & Co.
		500.00	1816	3960	do
		1,891.47	1817	3255	W. S. Goodwyn
		1,000.00	1818	3961	Morton Bliss & Co.
		1,000.00	1819	3962	do
	30	1,659.90	1820	1753	Insinger & Co., Amsterdam
Dec.	6	2,216.67	1823	1182	Wm. G. Chittick
		100.00	1824	16	do
		3,433.33	1822	2889	Eliz. A. Andrews
(page 46)		3,433.33	1821	2891	Catharine L. Andrews
	5	1,000.00	1825	10790	Mrs. Alice L. Watson of Bridgeport, Conn.
		1,000.00	1826	10789	do
		1,000.00	1827	10792	do
		2,000.00	1828	8028	Robert Garrett & Sons
		5,000.00	1829	9760	R. A. Lancaster & Co.
	11	10,000.00	1830	8895	Robert Garrett & Sons
	12	10,000.00	1831	10522	J. S. Wells
	15	388.89	1832	5781	Mrs. Lucy E. Dobyns
	13	5,000.00	1833	9893	John Bloodgood & Co.
		5,000.00	1834	10397	W. F. Sebert
	18	5,000.00	1835	10554	Wilson Colston & Co.
		5,000.00	1913	9963	R. H. Maury & Co.
		10,000.00	1914	10497	J. S. Wells
	24	4,433.33	1915	8	Wm. G. Chittick
		5,000.00	1916	10342	W. F. Sebert
		551.82	1917	7793	J. H. Fisher
		33.32	1918	11042	L. H. Niles
		200.00	1919	314	J. D. Waugh
		14,772.33	1921	749	Phoenix Fire Insurance Co., of New York
	26	10,000.00	1922	11096	Pearl & Co.
		79.67	1923	10966	John B. Manning
		10,000.00	1924	10717	J. B. Manning
		1,000.00	1925	10702	Marx & Co.
		1,000.00	1926	9163	August Belmont & Co.
		1,000.00	1927	5210	Tutien Nolthenius & de Haan of Amsterdam
		2,000.00	1928	8483	Alexander Reiman

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1900					
Dec.	26	\$10,000.00	1929	9787	Wilson Colston & Co.
		24.62	1930	9763	do
		5,000.00	1931	11134	DeJonge & Co.
		5,000.00	1932	9303	Robert Garrett & Sons
		8,000.00	1933	8554	do
		2,000.00	1934	8579	do
		10,003.34	1935	8272	do
		1,000.00	1936	8194	Johnston Brothers & Co.
		1,000.00	1937	8153	do
		7,061.98	1938	801	James Cormick
		370.62	1939	8131	do
		127.00	1940	820	do
		66.67	1941	984	Frederick Hotchkiss
		178.23	1942	2412	Isaac Witz of Staunton
		160.00	1943	3365	S. Stein
		8,300.00	1944	1455	W. A. Hadden
		1,533.33	1945	4908	Lancaster, Brown & Co.
		100.00	1946	536	Taussig Fisher & Co.
		5,000.00	1947	5982	Robert Garrett & Sons
		10,000.00	1948	7985	do
1901					
Jan.	11	10,000.00	1949	8275	do
		5,000.00	1950	9499	Davenport & Co.
		10,000.00	1951	9650	G. T. Bonner & Co.
		10,000.00	1952	10527	J. S. Wells
	17	634.67	1954	672	Eliza Adams
Jan.	21	1,362.00	1955	122	Louis C. Fischer, Trustee for Caroline Fischer
(page 47)	16	1,000.00	1956	6250	Hamilton Blydenburgh of New York
		1,000.00	1957	10928	Pearl & Co.
	30	1,413.33	2705	6380	Nichols Stone & Co.
		5,000.00	1965	9840	John Bloodgood & Co.
		5,000.00	1966	9962	R. H. Maury & Co.
		2,000.00	1967	8482	Joseph H. Reiman
		2,000.00	1968	8209	do
		1,000.00	1969	10280	W. F. Sebert
		5,000.00	1970	10839	L. H. Niles
		5,000.00	1971	10347	John Malcolm of Belfast, Ireland
	29	10,000.00	1972	872	James G. Batterson, Pres.
		10,000.00	1973	8382	Robert Garrett & Sons
		10,000.00	1974	9833	John B. Manning
		5,000.00	1975	10181	Jno. B. Manning
Jan.	29	\$ 5,000.00	1976	10924	Asiel & Co.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1901				
Feb. 1	2,240.00	1979	4268	D. M. Perine, George S. Brown, Wm. H. Graham, John A. Brown and James Brown, Trustees of the Estate of Alexander D. Brown
	7	2,602.50	3635	7511 R. N. Herndon
		867.50	"	7512 D. C. Herndon
	8	595.00	3632	6721 James G. King's Sons
	13	7,640.00	1983	3236 E. Tabenstedt & Co.
	15	836.60	1984	3467 Walker & Lumsden of London
	18	10,000.00	1987	8248 Robert Garrett & Sons
Mar. 4	29.37	2011	69	H. Amy & Co.
	126.66	2011	5809	R. Irvin & Co.
	1,216.67	2010	3016	James Robb King & Co.
	120.00	2011	1295	Hallgarten & Co.
	100.00	2012	1674	Vermilye & Co.
	100.00	2011	1880	George L. Henser
	1,000.00	2011	470	Stern Brothers, London
	500.00	2011	3782	Mrs. Mary A. Craig
	1,000.00	2011	3970	John Elliott of New York
	1,000.00	2011	3973	do
	1,000.00	2011	4192	James Duncan
	1,000.00	1989	9621	F. T. Redwood
	1,000.00	1989	9970	Bearer
	819.73	2010	6904	Mary E. Lindsay
	1,000.00	1989	10893	C. L. Beard
	3,165.50	2010	3620	Judge R. C. L. Moncure
	786.66	2009	9378	Joseph Fisher
	3,483.66	2009	379	John J. Ryan of Phila.
	588.92	2009	11100	Thos. Branch & Co.
	5,000.00	1990	9799	John B. Manning
	5,000.00	1991	11108	Wm. H. Fisher
	5,000.00	1992	8528	George L. Krebs
	5,000.00	2001	10840	L. H. Niles
	5,000.00	2002	10878	Boully & Thompson, London
	5,000.00	2003	6135	Robert Garrett & Sons
	5,000.00	2004	6132	do
	6,000.00	2005	338	Jas. H. Chamberlin
(page 48)	7,700.00	2006	2099	Moses Solomons
	9,585.00	2007	4540	Louis Nathan
	10,000.00	2008	11132	I. & S. Wormser
	383.33	2010	4859	James Robb King & Co.
	1,000.00	1989	10372	J. B. Manning
	1,000.00	1989	10373	do

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1901				
	1,000.00	2009	10202	do
	404.83	2010	10447	do
6	5,000.00	2013	1947	John K. Gilliat & Co.
	5,000.00	2014	10588	J. B. Manning
	2,683.34	2170	846	Ellinger & Co.
	1,916.67	2179	6645	do of Manchester Eng.
14	3,000.00	2018	5287	Richard Swann
	5,000.00	2019	11070	W. F. Sebert
	5,000.00	2020	11073	do
	10,000.00	2021	10462	J. S. Wells
	10,000.00	2022	1942	John S. Algernon Gilliat with benefit of survivorship
	10,000.00	2023	6013	Robert Garrett & Sons
19	846.53	2024	3591	Wm. F. Gardner
30	500.00	2028	2357	William Graham
	500.00	2028	2358	Wm. Graham
	500.00	2029	2359	do
	500.00	2029	2360	do
Apr. 1	10,000.00	2031	10470	J. S. Wells
	311.33	3634	5027	Samuel D. Davis
	5,500.00	2167	3046	do
2	5,000.00	2049	9870	John Bloodgood & Co.
	5,000.00	2049	9872	do
	4,000.00	2051	9533	Henry Rieman & Sons
	4,000.00	2052	9791	Wilson Colston & Co.
	10,000.00	2048	8843	Richard Swann
8	33,261.67	3633	1698	Hope & Co., in Amsterdam
	3,505.20	3628	3060	Thomas French Wallace
	766.67	3629	2371	James Robb King & Co.
	383.33	2169	4433	do
	50.00	2164	5138	H. J. M. Despard
	575.00	2165	7268	James D. King Sons
	5,553.33	2165	8292	S. G. & G. C. Ward
	4,166.67	2167	10255	Mrs. Phoebe H. Bailey
11	500.00	2057	10723	J. B. Manning
	1,000.00	2057	3866	H. Amy & Co.
	1,000.00	2057	10635	S. S. Prince
	100.00	2057	10653	J. B. Manning
	400.00	2057	4145	O. T. Terry
	1,000.00	2057	10565	J. S. Wells
	1,000.00	2057	7855	J. B. Manning
	5,000.00	2057	11135	DeJonge & Co.
15	5,000.00	2058	11055	W. R. Nofsinger
	19,166.67	2166	3286	Wentworth, Blackett, Beau- mont, etc.
	5,000.00	2059	2823-27	Stern Brothers

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1901				
	5,000.00	2060	2828-32	do
23	846.67	2064	3020	W. S. Hatch & Son
24	100.00	2065	701	Miss Eloise Loundes
(page 49)	1,000.00	2066	467	Stern Brothers, Ldn.
	1,000.00	2067	468	do
	1,000.00	2068	469	do
	1,000.00	2069	1676	Vermilye & Co.
	1,000.00	2070	3578	A. Iselin & Co.
	3,900.00	2071	4301	John L. Atlee
	10,000.00	2072	7982	Robt. Garrett & Sons
	1,000.00	2073	8156	Johnston Brothers & Co.
	5,000.00	2074	9741	R. H. Maury & Co.
	5,000.00	2075	9876	John Bloodgood & Co.
	5,000.00	3549	9957	R. H. Maury & Co.
	5,000.00	2077	9958	do
	5,000.00	2078	10017	Marx & Co.
	5,000.00	2079	10771	Wilson Colston & Co.
	10,000.00	2080	10988	Lucien H. Niles
May 17	1,000.00	2086	4760	J. & J. Higgin
	1,000.00	2087	4766	do
	1,000.00	2088	4767	do
	1,000.00	2089	4768	do
	1,000.00	2090	4769	do
	1,000.00	2091	4770	do
	1,000.00	2092	4771	do
	1,000.00	2093	4772	do
	1,000.00	2094	4773	do
	1,000.00	2095	4774	do
	1,000.00	2096	4775	do
	1,000.00	2097	4776	do
	1,000.00	2098	4777	do
	1,000.00	2099	4778	do
	1,000.00	2100	4779	do
	1,000.00	2101	4780	do
	1,000.00	2102	4781	do
	1,000.00	2103	4782	do
	1,000.00	2104	4783	do
	1,000.00	2105	4784	do
June 3	1,932.63	2106	9353	Daniel Getty, Trustee for Edmonia B. Getty
	1,000.00	2107	3633	Geo. Henry Greenwood, England
	9,000.00	2107	509	Geo. Evans
	1,000.00	2978	3670	Chas. Hirst
	3,000.00	2978	5165	Isaacs Taylor & Williams
	1,000.00	2978	8192	Johnston Bros. & Co.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1901				
	5,000.00	2978	10396	W. F. Sebert
	10,000.00	2109	8622	Robert Garrett & Sons
28	1,100.00	2119	506	Edward Mayo, Exr. of Sam'l Marx and as such Trustee, Virginia McBlair
June 28	413.49	2119	3085	Exrs. C. C. Smott
	5,000.00	2122	10973	L. H. Niles
	5,000.00	2122	10996	I. & S. Wormser
	5,000.00	2121	10062	R. H. Maury & Co.
	5,000.00	2121	5617	William & John O'Brien
	1,582.39	2119	7069	George N. Musgrave, Exr. Newit Harris, decd.
	1,005.00	2119	8043	Frances R. Reid
	1,005.00	2119	9211	do
(page 50)	5,000.00	2120	6118	Robert Garrett & Sons
	333.33	2119	5783	Pim Forwood & Co.
	939.73	2119	4153	L. B. Thomas
	5,000.00	2120	3336	Robt. B. Bolling
	2,532.40	2119	1575	John A. Thompson of Balto
	1,100.00	2119	1332	D. Van Horne Floyd
July 26	2,000.00	3104	8861	Ro. Garrett & Sons
	1,000.00	3105	10916	Morton Rose & Co.
	1,000.00	3106	4181	George A. Washington
	1,000.00	3107	9822	John B. Manning
	836.91	2164	11061	Wilson Colston & Co.
	5,000.00	3108	9816	Brown & Lowndes
	1,949.03	2171	9731	Oelrichs & Co.
	1,000.00	3630	7886	Charles George Wilson
	766.67	2164	4986	James Robb King & Co.
	333.33	2166	9598	Robert Garrett & Sons
	182.66	3685	2981	Charles E. Peterson
Aug. 22	1,000.00	2111	1677	Vermilye & Co.
	1,000.00	2111	1678	do
	1,000.00	2111	3726	Chas. Hirst
	1,000.00	2111	3727	do
	1,000.00	2111	3728	do
	1,000.00	2111	3771	Wilson Colston & Co.
	1,000.00	2111	4173	Adolphus Keppelmann
	10,000.00	2112	8800	Robert Garrett & Sons
	1,000.00	2111	9459	J. B. Manning
	5,000.00	2113	9790	Wilson Colston & Co.
	1,000.00	2111	9860	Thomas C. Jenkins
	1,000.00	2111	10272	W. F. Sebert
	2,000.00	2113	10315	L. H. Niles
	1,000.00	2113	10384	do
	1,000.00	2113	10353	John Malcolm

		Our Ctf.		REGISTERED IN NAME
DATE	AMOUNT	Number	NUMBERS	
1901				
	1,000.00	2113	10530	J. S. Wells
	1,000.00	2114	10574	do
	2,500.00	2114	10596	Wm. H. Fisher
	1,500.00	2114	10617	Ridgeley Du Val Jr.
	1,000.00	2114	10917	Morton Rose & Co.
	4,000.00	2114	10922	Medwin & Clark
Sept. 11	5,000.00	2118	10393	Nicholson & Co.
17	66.66	2134	7776	Wm. T. Harrison of Norfolk
24	3,066.66	2135	4974	Wm. Cabell Rives
1902				
Feb. 3	10,000.00	2143	9469	Davenport & Co.
	10,000.00	3547	6010-14	Robert Garrett & Sons
	10,000.00	2144	8433	do
	10,000.00	2145	8618	do
	10,000.00	2146	5603	McKim & Co.
	10,000.00	2147	7281-10260	5000 Thos. Branch & Co. (7281) 5000 Robt. A. Chamberlain (10260)
	10,000.00	2148	11146-9653	5000 W. H. Lucke (11146) 5000 G. T. Bonner & Co., (9653)
4	508.32	3203	4007	James W. Allison
	316.67	3200	3929	J. W. Allison Jr., Dollie E. Vidder
	1,643.71	3203	3917	J. W. & W. H. Allison, Trustees for Victoria E. Carson
	80.66	3353	7013	Ann Allison
(page 51)	17.04	3485	7010	Ann Allison
	3,751.00	3203	7012	Ann Allison, devisee and Trustee W. Allison
	792.66	3203	7011	do
	1,666.67	3203	3931	J. W. Allison, Trustee for Dollie E. Vidder (former- ly Waters) u-will Benj. Waters, decd.
Mch. 10	858.33	2154	551	Henry S. Sanford
20	500.00	2166	889	W. A. Flack
May 21	428.32	2127	1691	Chauncey Brooks
	1,000.00	2158	4822	Chauncey Brooks of Balto.
	2,000.00	2158	4823	do
	2,000.00	2158	4824	do
	5,000.00	2158	4934	do
	5,000.00	2159	8701	do
	5,000.00	2159	9126	do
	5,000.00	2160	9127	do

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
	5,000.00	2160	9143	do
	5,000.00	2161	9144	do
	5,000.00	2161	9145	do
	5,000.00	2162	9219	do
	5,000.00	2162	9220	do
26	598.21	2165	1674	John S. Wiltse
27	5,000.00	2175	8325	Richard Swann
June 4	2,618.33	2181	2545	Louis Gruning of L'pool.
June 4	\$14,300.00	2180	3349	Louis Gruning, Merchant, 22 Chapel St., Liverpool, and Henry Huth, Merchant, 10 Morgate St., London
19	846.66	2182	6989	Edward P. Pitts
	226.06	2183	6990	do
July 11	1,060.00	2191	6546	Benjamin Hart
15	571.03	2184	10032	Jane B. Ferguson
	3,383.77	2185	10001	do
31	3,000.00	2189	2466	Otto Goldschmidt of London
29	3,900.00	3554	2857	Alexander Duncan
	1,000.00	3555	10700	Marx & Co.
	4,000.00	"	5384	Tutien Nolthenius and de Haan of Amsterdam
Aug. 7	5,000.00	2195	9951	R. H. Maury & Co.
	5,000.00	2195	9950	do
	2,500.00	2196	6962	William Renshaw
	1,000.00	2266	2923	Stern Bros. of London
	1,000.00	2267	8646	C. L. Beard
	1,000.00	2268	9082	Brown & Lowndes
	5,000.00	2264	10241	Drexel, Morgan & Co.
	5,000.00	2265	11087	Satterthwaite & Co., of London
	5,000.00	2197	9887	John Bloodgood & Co.
	5,000.00	2198	5436	H. Amy & Co.
	1,000.00	2199	2240	J. & J. Higgin
	1,000.00	2200	2241	do
12	2,240.00	2212	4266	D. M. Perine, et al, Trust. Est. Grace Ann Greenway
	3,550.00	2211	5594	Horace Johnson
	10,000.00	2216	9853	Wilson Colston & Co.
Aug. 13	10,000.00	2221	8806	Robert Garrett & Sons
(page 52)	10,000.00	2222	8436	do
	1,000.00	2220	3683	Charles Hirst
14	3,833.33	2223	7274	Moses Bruhl of N. Y. City
	7,066.67	2224	4228	Henry Clews & Co.
15	3,383.77	2354	10005	Ferdinand C. LaTrobe
	571.03	2355	10036	do

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
	104.00		5918	Virginia Military Institute
18	1,000.00	2225	8201	Johnston Bros. & Co.
	1,000.00	2225	8196	do
19	1,000.00	2226	3684	Chas. Hirst
	5,000.00	2227	10217	Jerome N. Bonaparte
	5,000.00	2227	10395	W. F. Sebert
21	5,000.00	2228-5250-10378		
		1680-	8155	Julius S. Hitchcock 5250
				Vermilye & Co., 1680
				Wm. H. Fisher 10378
				Johnston Bros. & Co. 8155
	4,000.00	2229	5190	Richard Swann
	5,000.00	2238	10712	L. H. Niles
	5,000.00	2237	10166	R. H. Maury & Co.
	3,000.00	2236	9679	Wilson Colston & Co.
	5,000.00	2235	9890	John Bloodgood & Co.
	3,000.00	2234	10934	Medwin & Clarke
	5,000.00	2233	6346	Robert Garrett & Sons
	5,000.00	2232	10628	R. F. Tysen & Co.
	5,000.00	2231	10775	Wilson Colston & Co.
	5,000.00	2230	5449	Whitehouse & Co.
	300.00	2239	3160	George Tarry, Sr.
	250.00	2240	704	A. Goettel & Co., in trust
	1,150.00	1	5908	Newcomb & Cook
	3,300.00	2	2674	Gust. Krauss
	500.00	3	3565	A. Iselin & Co.
	500.00	4	3566	do
	500.00	5	3567	do
	5,000.00	6	9844	John Bloodgood & Co.
	5,000.00	7	11128	Helmets McGovern & Co.
	5,000.00	8	5280	Wilson Colston & Co.
	5,000.00	9	4684	do
	5,000.00	50	9730	Robert Garrett & Sons
	10,000.00	1	8795	do
	10,000.00	2	10590	H. Amy & Co.
	10,000.00	3	8616	Robert Garrett & Sons
	10,000.00	4	10478	J. S. Wells
	3,000.00	5	7888	Charles George Wilson
	7,000.00	6	6496	John B. Manning
	10,000.00	7	10476	J. S. Wells
	10,000.00	8	8623	Robert Garrett & Sons
	10,000.00	9	1943	John S. & Algernon Gilliat, with benefit of survivorship.
	10,000.00	60	8898	Wilson Colston & Co.
	10.50	2261	10850	W. F. Sebert
	733.33	2	11141	D. Fahnestock & Co.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1902					
Aug.	21	\$ 8.21	3	11080	Satterthwaite & Co., London
	25	4,895.00	2269	7735	Johns Hopkins University
		4,140.48	2272	4299	Gen'l A. S. Howe, U. S. A.
		850.00	2273	4185	Mrs. E. M. Semmes
(page 53)		2,000.00	2273	4276	E. N. Semmes
		1,705.67	2274	5916	Mrs. Ann S. Rutherford, Exr. of John C. Rutherford, decd.
		674.33	2274	1324	Mrs. Ann S. Rutherford
		12,000.00	2278	8546	Robert Garrett & Sons
		1,150.00	3482	5048	George Richardson, 26 Sunderland Terrace, London
		436.67	2280	4606	James Robb King & Co.
		958.33	3482	3900	Henry Clews & Co.
Aug.	25	\$ 635.00	2282	3093	Richd. Irvin & Co.
		1,533.33	2283	3018	J. Fraud
		766.67	3486	2460	Widow W. Boiski of Amsterdam
		5,000.00	2285	1932	John Cordner of Montreal, Canada
	26	1,000.00	2286	10872	L. H. Niles
		1,000.00	2286	10575	J. S. Wells
		1,000.00	2286	10874	L. H. Niles
		2,000.00	2286	10736	Ridgeley Duval, Jr.
Sept.	9	75.52	2312	11051	Jno. C. Brady
		1,000.00	3550	11006	I. & S. Wormser
		1,000.00	3550	11005	do
		5,000.00	3549	11003	do
		5,000.00	2314	10991	W. F. Sebert
		5,000.00	2314	10857	Satterthwaite & Co.
		5,000.00	3559	10856	do
		5,000.00	3558	10855	do
		5,000.00	2316	10854	do
		5,000.00	2316	10755	Charles Higginson
		1,000.00	2317	10583	J. S. Wells
		4,000.00	2317	6987	Thomas Hall of London
		1,000.00	2317	10634	S. S. Prince
		1,000.00	2317	10533	J. S. Wells
		1,000.00	2317	10531	do
		1,000.00	2317	10529	do
		5,000.00	2318	10368	L. C. DeGrove & Co.
		5,000.00	2318	10302	L. H. Niles
		1,000.00	3553	10275	W. F. Sebert
		1,000.00	2553	10274	do
		1,000.00	3553	10273	do
		5,000.00	3003	10147	J. L. Johnston

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
Sept. 9	\$ 5,000.00	3004	9899	John Bloodgood & Co.
	5,000.00	3001	9898	do
	5,000.00	3002	9869	do
	5,000.00	2321	9859	Thomas C. Jenkins
	5,000.00	2321	8677	Robert Garrett & Sons
	780.00	2322	6986	Thomas Hall of London
	500.00	2323	6478	James Coates
	5,000.00	2324	6326	Robert Garrett & Sons
	480.00	2325	6130	Norfolk & Petersburg R. R. Co.
(page 54)	5,000.00	3567	5985	Robert Garrett & Sons
	5,000.00	3568	5984	do
	555.59	2310	5722	William Mahone, President Norfolk & Petersburg R. R. Co.
	477.07	2309	3934	Miss E. H. Oliver
	1,071.31	2308	2273	John S. Nicholas, Jr.
	2,648.13	2307	550	James Robb King & Co.
17	261.53	2326	9113	Martha E. Rowland of Nor- folk, Va.
	939.72	2327	1644	Mary S. Crichton
	166.66	2328	1681	George Chewring
	224.00	"	5755	R. B. Willcox
	4,000.00	2329	1429	Augustus Wiggin
	1,000.00	2330	2813	Stern Brothers of London
	666.67	2332	3310	Maria K. Allison
	1,000.00	2333	3703	Chas. Hirst, Huddersfield, Yorkshire, Eng.
	1,150.00	2334	4335	James Robb King & Co.
	383.33	2335	6601	J. S. Kennedy & Co.
	922.00	2336	9769	Robert Garrett & Sons
	420.58	2337	11113	Ridgeley Duval, Jr.
	500.00	2338	3865	H. Amy & Co.
		(Non Neg.)		
18	968.32	2339	622	William J. Watson
22	370.00	2342	602	William Skinner
	1,030.00	"	1748	J. H. Loundes, Agent
	1,030.00	"	1749	do
	4,170.67	"	1577	Miller and Franklin
	3,433.33	2342	1724	Mercer and Johnston
	20,000.00	2343	9727	Robert Garrett & Sons
	1,000.00	2344	9927	John B. Manning
	1,000.00	2345	9908	Jno B. Manning
	5,000.00	2346	9311	Thomas C. Jenkins
	5,000.00	"	9888	John Bloodgood & Co.

DATE		AMOUNT	Our Ctf.		REGISTERED IN NAME
1902			Number	NUMBERS	
Sept.	22	\$ 3,166.66	2347	9659	Miss Jane Catharine Gamble, of 67 Portland Place, London, Spinster
		1,000.00	“	4193	James Duncan
		2,000.00	“	9830	John Bloodgood & Co.
		2,000.00	“	9817	Brown & Loundes
		10,000.00	2348	4183	George A. Washington
		5,000.00	2745	10224	R. A. Lindsay
		5,000.00	2746	10623	R. F. Tyson & Co.
		1,000.00	3280	9204	Levy & Borg
		4,000.00	“	10440	J. H. Fisher
		5,000.00	3281	5565	Whitehouse & Co.
		3,865.33	2351	2533	David Barclay Chapman of London
		1,000.00	“	6474	James Coates
		1,000.00	“	6473	do
		1,000.00	“	6475	do
		1,000.00	2352	3704	Chas. Hirst, Huddersfield, Yorkshire, England
		1,000.00	2353	3705	Chas. Hirst, Huddersfield, Yorkshire, Eng.
	24	10,000.00	2373	8614	Robert Garrett & Sons
(page	55)	10,000.00	2374	11103	J. Harmanus Fisher & Son
		390.00	2375	408	Sarah W. Bower, Brooklyn, N. Y.
		1,000.00	2376	10401	W. F. Sebert
		1,000.00	“	10400	do
		5,000.00	“	10627	R. F. Tyson & Co.
		1,000.00	“	1070	Stern Brothers of London
		1,000.00	“	1069	do
		1,000.00	“	1068	do
	25	266.67	2385	1229	Leon Frank
		1,666.66	“	155	do
		10,000.00	2377	10515	J. S. Wells
		19,166.67	2386	4121	Andrew Gregg & Co.
		6,458.66	2573	498	Wm. H. Mosby, Trustee for his wife, Elizabeth F. Mosby
		5,000.00	2389	8826	J. B. Manning
		100.00	2388	1836	George Elliott of New York City
		100.00	“	1840	do
		100.00	“	1841	do
		100.00	“	1839	do
		100.00	“	1837	do
		100.00	“	1838	do
		773.33	“	1221	M. Kahn

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1902					
Sept.	25	\$ 262.66	2426	8583	Mary W. Buchanan
		90.00	2427	4118	do
		5,000.00	2387	11049	J. J. Nicholson & Sons
		793.33	2390	4281	H. Amy & Co.
		999.98	2391	136	John B. Manning
		182.63	2392	2122	Josiah Ryland
		699.09	2393	10825	Mary Willis Currie
		1,000.00	2394	10019	Marx & Co.
		10,000.00	2382	10611	Arents & Young
		1,000.00	2383	10308	R. L. Chamberlaine
		1,000.00	2383	10276	W. F. Sebert
		500.00	2927	10313	F. T. Redwood
		1,000.00	2383	10307	R. L. Chamberlaine
		1,000.00	2387	10243	Drexel, Morgan & Co.
		1,000.00	"	10028	Marx & Co.
		1,000.00	"	9703	Jno. B. Manning
		1,000.00	"	9702	do
		1,000.00	"	9654	E. T. Bonner & Co.
		1,900.00	"	9395	Robert Garrett & Sons
		14,000.00	2395	8791	Dr. Sidney Sappington
		2,116.66	2396	8400	S. G. & G. C. Ward
		3,000.00	2930	6831	Francis A. Provost of Ger- mantown, Phila., Pa.
		1,000.00	2397	1869	James Robb King & Co.
		500.00	2931	6631	J. B. Manning
		500.00	2932	6607	do
		500.00	2928	6530	John B. Manning
		290.89	2398	6633	do
		1,625.30	2399	6626	A. Goettel & Co.
		300.00	2400	6499	John B. Manning
(page 56)		283.81	2401	6491	John B. Manning
		7,666.67	2402	4891	R. Raphael & Sons of Lon- don
		1,150.00	2403	4252	James Robb King & Co.
		2,300.00	2404	4099	do
		1,000.00	2405	2740	S. Stein
		100.00	2383	528	Taussig Fisher & Co.
		2,196.27	2406	308	L. Von Hoffman & Co.
		5,000.00	2929	10018	Marx & Co.
		10,000.00	2408	7975	Robert Garrett & Sons
		10,000.00	2420	6572	W. W. Corcoran
		10,000.00	2409	10727	J. B. Manning
		5,000.00	2410	10592	H. Amy & Co.
		10,000.00	2411	10483	J. S. Wells
		5,000.00	2412	9894	John Bloodgood & Co.
		567.75	2413	7093	Eliza Madison Lockett

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
	4,440.79	2414	7954	Robert Garrett & Sons
	5,000.00	2415	8555	do
	1,000.00	2416	7182	Chase & Higginson
	1,000.00	2417	7178	do
	3,000.00	2418	6832	Margaret C. Provost of Germantown, Phila., Pa.
	5,000.00	2419	5370	Robert Garrett & Sons
26	7,924.33	2421	4146	P. W. Brown
	329.33	2422	4214	De Rham & Co.
	1,747.20	2423	8069	Robert Garrett & Sons
Oct. 1	780.00	2425	2341	Joshua Motter
	1,551.66	2424	2283	Lucy B. Griswold
7	150.00	2445	9347	Anna J. Ryan, Gdn. of Jesse T. Ryan, Nettie W. Ryan
	1,000.00	"	9346	do
	20,586.62	"	157	Hillbarter, Trustee, etc.
	1,866.67	"	671	James McGowan
	988.33	"	918	Jan Van der Hoop & Toon
	1,816.66	"	2149	Caroline E. Miles
	1,000.00	"	2739	S. Stein
	4,500.00	"	2900	R. Singleton Peabody
	7,153.33	"	3008	Nelson C. Reed
	1,000.00	2445	3665	John Kaye Clayton of West Yorkshire, Eng.
	353.33	"	4436	Henry F. Teohuven & Co.
	1,150.00	"	5988	J. S. Kennedy & Co.
	688.00	"	6177	George Hamilton
	2,300.00	"	7697	Robert Benson & Co.
	1,000.00	"	7846	D. Fahnestock & Co.
	1,000.00	"	8839	G. T. Bonner & Co.
	10,000.00	"	9342	Robert Garrett & Sons
	5,000.00	"	9711	John B. Manning
	1,000.00	"	9864	do
	1,000.00	"	10024	Marx & Co.
	6,110.77	"	10138	Lucien H. Niles
	5,000.00	"	10390	J. B. Manning
	93.95	"	10429	do
	346.80	"	10609	do
	5,000.00	"	11001	I. & S. Wormser
	500.00	"	11041	L. H. Niles
8	5,000.00	2481	8603	Robert Garrett & Sons
(page 37)	10,000.00	2482	10842	J. B. Manning
	5,000.00	2481	10980	Lawson Crane & Douglas
	5,000.00	2483	6056	Isaacs Taylor & Williams
	5,000.00	"	4025	Thomas Wilson
10	5,878.87	2529	2561	Samuel Montagn, London

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
	2,725.33	2529	4795	Samuel Montagn
	2,300.00	"	6173	do
	211.66	"	6985	Samuel Montagn of London
	2,221.66	2517	8714	Allgemeine Deutsche Credit Anstalt of Liepzig, Ger- many
	8.34	"	8717	do
	7,666.67	2530	2699	James G. King's Sons
	500.00	"	8586	do
	575.00	"	2754	do
	206.67	"	2731	do
	413.33	"	2729	do
	1,150.00	"	2737	do
	1,916.67	"	2745	do
	826.67	"	2730	do
	1,725.00	"	2756	do
	383.33	"	2752	do
	383.33	2531	3272	M. Morgans Sons
	383.33	"	3273	do
	10,000.00	2574	8574	Robert Garrett & Sons
	10,000.00	2575	9618	F. T. Redwood
	5,000.00	2576	10076	R. H. Maury & Co.
13	5,000.00	2533	9843	John Bloodgood & Co.
	5,000.00	"	7408	Thomas Branch & Co.
	1,000.00	2516	6465	James Coates
	1,000.00	2516	6466	do
	1,000.00	"	6467	do
	1,000.00	"	6468	do
	1,000.00	"	6469	do
15	10,000.00	2522	8276	Robert Garrett & Sons
	310.65	2523	709	Nannie E. Caskie
22	795.00	2525	1450	H. R. Hazlehurst
23	2,745.33	2551	2991	Wm. S. Wilson
	985.00	2552	3180	Richd. Irvin & Co.
	1,200.33	2553	3874	Jno. B. Manning
	1,916.66	2554	4925	D. M. McAndrew
	5,791.20	2555	4096	L. Von Hoffman & Co.
	5,273.33	2556	4936	D. Henry Beaumont
	10,000.00	2557	9752	R. A. Lancaster & Co.
	5,000.00	2558	9858	Thomas C. Jenkins
	5,000.00	2559	9891	John Bloodgood & Co.
Nov. 5	2,000.00	2560	3281	Drexel Morgan & Co.
	2,000.00	"	3282	do
	2,000.00	"	3283	do
	2,000.00	"	3284	do
	2,000.00	"	3285	do

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1903				
	2,000.00	2561	3286	do
	2,000.00	"	3287	do
	12 500.00	2572	1895	M. Miller
	25 436.66	2578	732	Addison T. Coates
Dec.	8 5,000.00	2582	8181	Joseph H. Rieman
	19 10,000.00	2588	11130	Hilmers McGowan Co.
	24 2,168.33	2600	4298	Rev. T. G. Goodwin
	26 10,000.00	2597	8737	Robert Garrett & Sons
(page 58)	10,000.00	2598	9430	Davenport & Co.
	1,083.53	2599	1828	Helen Marye
1903	7,666.67	2601	2139	Philip Speyer & Co.
Jan.	7 1,776.80	2605	6575	W. Benton Boggs
	19 10,000.00	2607	10835	H. L. Gaw & Co.
	21 5,000.00	2608	10715	L. H. Niles
	5,000.00	2608	3924	Brown, Lancaster & Co.
	4,500.00	2609	390	Edward Fuchs of Hamburg, Germany
	1,586.67	2610	553	Jas. Robb King & Co.
	1,570.69	2611	715	Mary J. Baldwin
	7,786.70	2612	845	Fisk & Hatch
	1,000.00	2613	1085	Stern Brothers of London
	4,531.30	2614	1432	George K. Sistare
	5,448.33	2615	1899	James Robb King & Co.
	5,505.66	2616	2100	Wm. Robinson
	945.33	2617	2157	M. A. Howell
Jan.	21 \$ 1,371.66	2618	2297	Joseph Stern
	4,541.83	2619	2317	Mess de Rothschild Brothers of Paris
	714.00	2620	2807	Archibald A. Hodge
	600.00	2621	3391	Vant Vlie Wing & Van Limmik
	160.72	2622	3544	John J. Osborn
	1,916.67	2623	3590	James Robb King & Co.
	766.67	2624	3653	Alfred Hirst, England
	383.33	2625	3857	James Robb King & Co.
	6,133.33	2626	3947	Arnitsted & Co.
	3,330.40	2627	4215	D. E. Rham & Co.
	1,222.99	2628	9766	Robert Garrett & Sons
	766.67	2629	4337	C. Ashworth
	5,908.93	2630	4591	Sir William R. Brown, Bart.
	4,600.00	2631	4607	James Robb King & Co.
	383.33	2632	4753	S. E. Calder
	230.17	2633	5142	James Robb King & Co.
	1,916.67	2634	6640	J. S. Kennedy & Co.

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1903				
	383.33	2635	6955	James G. King & Sons
	366.07	2636	7271	Lewis B. Williams, for parties out of the State
	1,030.64	2637	7318	Thomas J. Clark
	1,073.33	2638	7921	Robert Garrett & Sons
	396.66	2639	8270	A. G. Garrett
	3,929.13	2640	8863	Ro. Garrett & Sons
	1,088.66	2641	8887	Robert Garrett & Sons
	2,666.67	2642	9361	William Dashwood Fane, of Milbourne Hall, Derby, Esquire and Dashwood Watts Rigscotts.
29	383.33	2644	3478	J. Robb King & Co.
Feb. 4	5,000.00	2648	3851	Citizens Fire Ins. Co., of New York
10	10,000.00	2650	10112	Wilson Colston & Co.
page 59)	10,733.33	2651	3861	J. T. Pearson, Leeds, Yorkshire, England
	1,938.43	2649	2383	Henry S. Fink
11	10,000.00	2652	1941	John S. and Algernon Giliat, with benefit of survivorship
	10,000.00	2653	10488	J. S. Wells
21	1,601.00	2654	7978	George Peabody Russell, R, Singleton Peabody and Charles W. Chandler
	1,000.00	"	7979	do
	1,000.00	"	7980	do
	1,000.00	"	7981	do
	1,890.78	2655	1826	Margaret Tucker, Jr.
25	1,000.00	2658	7887	Charles George Wilson
	1,150.00	2659	5235	Alfred Marriott of Wakefield, Yorkshire, Eng.
27	534.67	2660	5357	Elizabeth T. Marshall
	2,300.00	2667	8093	Miller & Kruger of N. Y.
	748.93	2669	3451	A. Iselin & Co.
	916.66	2668	5097	M. Morgans Sons
	1,539.40	2670	6822	Charles Oliver O'Donnell
	500.00	2671	3569	A. Iselin & Co.
	500.00	"	3570	do
	500.00	"	3579	do
	500.00	"	3574	do
	500.00	2672	3453	do
	500.00	"	3454	do
	500.00	2673	3455	do
	500.00	2674	3456	do

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1904				
	500.00	2675	3457	do
	500.00	2678	3458	do
	500.00	2677	3568	do
	10,618.33	2678	3469	James Robb King & Co.
Mar. 13	5,750.00	2685	3810	Henry Durlacher, of 134 Harley Street, Cavendish Sq., London, Eng.
	2,666.67	2693	2765	Herries Co.
April 6	145.67	2707	2414	Frank Gutman
	5,000.00	2712	3399	Jas. P. Thomas & Son
May 7	10,000.00	2715	10490	J. S. Wells
	10,000.00	2716	10523	do
	5,000.00	2717	10710	L. H. Niles
Sept. 4	93.13	2741	4792	Susan B. Stevens
	1,005.00	"	3306	Thomas Jessup Miller
Nov. 24	866.67	2744	646	H. A. Ovington
Dec. 22	3,433.33	2747	2890	Oliveira Andrews
	1,150.00	2748	3014	James Robb King & Co.
	445.88	2749	912	Samuel P. Moore, admr.
1904				Lucy Moore, decd.
Jan. 13	10,000.00	2750	10502	J. S. Wells
	208.43	2754	3065	Mary H. Forrest
	333.33	2755	3062	Mary H. Forrest, admx. of James Keith of Adj't. Gen'l's Office, Manchester, England
	2,284.33	2756	6661	Lt. Col. John Williams Rey- nolds
(page 60)				
Feb. 15	551.50	2757	8716	Allgemeine Deutsche Credit Anstalt of Leipzig, Ger- many
	8,627.33	"	695	Nannie P. Marshall
	4,983.33	"	7496	John T. Mounsey, Executor of H. W. Maccaughy
	200.00	2757	1047	John Weeber
	3,095.00	"	11	Creed Thomas
	4,105.73	"	7834	Henry Ludlam, Trustee for Albert Ludlam
	3,603.33	"	4453	Lucy Garrett Spencer and Harriet Muse Spencer, in- fant children of Robert H. Spencer, the interest to be paid to Harriet Spencer during her life.
April 20	5,000.00	2761	5839	Arents & Young

DATE 1904	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
May 9	100.00	2762	1878	Geo. L. Henser
	100.00	2763	1879	do
	1,000.00	2764	1883	do
	766.67	2765	4518	D. M. Childs
(Non. Neg.)				
June 3	10,000.00	2769	9341	Robert Garrett & Sons
Aug. 22	78.67	2772	2771	Grace E. Clark
Sept. 16	1,900.00	3552	651	J. Howard Walters
29	517.00	2774	8715	Allgemeine Deutsche Credit Anstalt of Leipic, Ger- many
Oct. 19	6,133.33	2775	4967	Major Charles Henry Pierre of York, England
Nov. 4	4,000.00	2787	406	Alexander Donnan, adm. fw of Thomas A. Oliver, decd.
	274.00	2788	3169	Wm. G. Spencer, guardian of Sally Ann Clerry
	111.87	2791	4161	Mrs. E. F. Hough, exx. of Mrs. C B. Gassoway, decd.
	6.00	2792	10953	J. B. Manning
	1,000.00	"	11125	do
	1,000.00	"	11079	do
	871.66	"	10197	F. T. Redwood
	1,000.00	"	10674	do
	1,000.00	"	10673	do
	100.00	"	10552	L. Von Hoffman & Co.
	22.34	"	10553	do

(CERTS NOW HELD) "WEST VIRGINIA DEBT COMMISSION,"

JOHN B. MOON, CHAIRMAN.

(page 61)	Dec. 20	696.66	2793	7702	Susanna Forgey
		20,000.00	2795	8553	Robert Garrett & Sons
		5,000.00	2796	10890	Wilson Colston & Co.
		5,000.00	2797	10444	J. B. Manning
		5,000.00	2798	11072	W. F. Sebert
		5,000.00	2799	11139	DeJonge & Co.
		100.00	2800	531	Taussig & Fisher
		100.00	"	534	do
		800.00	2800	4815	Charles A. Macy
		5,000.00	2801	7212	Robert H. Jenkins
		1,000.00	2802	1113	Stern Brothers of London
		1,000.00	2803	1112	do
		1,000.00	2804	1111	do
		1,000.00	2807	473	do
		1,000.00	2806	472	do
	29	10,000.00	2812	10343	Jno. C. Williams, Cashier

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1904				
Dec. 29	\$ 1,000.00	2812	1292	Hallgarten & Co.
	2,000.00	"	2868	Cammann & Co.
	2,000.00	"	2869	do
	1,000.00	"	4757	do
	10,000.00	"	5310	Leland Bros. & Co.
	5,000.00	5447		Whitehouse & Co.
	10,000.00	"	5648	Wm. Parsons
	5,000.00	"	5983	Robt. Garrett & Sons
	5,000.00	"	6121	do
	5,000.00	"	6165	do
	5,000.00	"	6167	do
	5,000.00	"	6168	do
	5,000.00	"	6171	Alex Rieman
	5,000.00	"	6224	Robt. Garrett & Sons
	10,000.00	"	6909	Wm. Parsons
	2,000.00	"	7213	Robt. H. Jenkins
	1,000.00	"	7843	D. Fahnestock & Co.
	10,000.00	"	8274	Robt. Garrett & Sons
	3,000.00	"	8439	do
	10,000.00	"	8601	do
	10,000.00	"	8617	do
	10,000.00	"	8621	do
	10,000.00	"	8670	do
	5,000.00	"	9302	do
	2,500.00	"	9335	do
	1,990.00	"	9345	do
	1,700.00	"	9388	do
	3,900.00	"	9392	do
	10,000.00	"	9344	do
	5,000.00	"	9387	do
	10,000.00	"	9433	Davenport & Co.
	3,000.00	"	9777	Jno. B. Manning
	10,000.00	"	9852	Wilson Colston & Co.
	5,000.00	"	9882	John Bloodgood & Co.
	5,000.00	2813	9952	R. H. Maury & Co.
	1,000.00	"	9972	Bearer
	7,000.00	2812	10129	Wm. Fisher & Sons
	5,000.00	2813	10135	R. H. Maury & Co.
	5,000.00	"	10226	R. A. Lindsey
	5,000.00	"	10229	do
	5,000.00	"	10230	do
	5,000.00	"	10239	Drexel Morgan & Co.
	5,000.00	"	10230	Drexel Morgan & Co.
	5,000.00	"	10253	L. H. Niles
	5,000.00	"	10294	W. F. Sebert
	5,000.00	"	10341	do

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1904					
Dec.	29	\$ 5,000.00	2813	10346	John Malcolm
		10,000.00	"	10463	J. S. Wells
(page	62)	10,000.00	2813	10480	J. S. Wells
		10,000.00	"	10485	do
		10,000.00	"	10496	do
		10,000.00	"	10498	do
		10,000.00	"	10504	do
		1,000.00	"	10538	L. H. Niles
		5,000.00	"	10605	Wm. Howe
		1,000.00	"	10908	J. B. Manning
		1,000.00	"	10873	L. H. Niles
		1,000.00	"	10871	do
		1,000.00	"	10648	H. Knickerbocker & Co.
		10,000.00	"	10649	J. B. Manning
		5,000.00	"	10650	do
		10,000.00	"	10758	Chase & Higginson
		5,000.00	"	10801	Vermilye & Co.
		5,000.00	"	10945	J. B. Manning
		5,000.00	"	10948	H. A. Orrick
		5,000.00	"	10950	L. H. Niles
		10,000.00	"	10970	do
		1,000.00	"	11044	R. H. Maury & Co.
		10,000.00	"	11062	W. F. Sebert
		10,000.00	"	11064	do
		10,000.00	2815	11066	do
		5,000.00	2813	11069	do
		10,000.00	2815	11098	Pearl & Co.
		158.66	"	7256	Francis C. Phillips
		371.98	"	6158	Kidder, Peabody & Co., Trs.
		334.00	"	1958	Francis Henry Mitchell, Not endorsed. P-A filed with No. 1957.
		1,183.87	"	7349	Joseph Lehmeier
		463.33	"	7457	do
		1,229.45	"	5015	Wm. E. Hatcher
		3,730.00	"	1628	E. C. Haden, Exr.
		173.33	"	1769	Wm. D. Heim
		3,495.96	"	1131	David S. Read
		1,600.00	2815	7805	Freitas Leal Brothers
		3,333.33	"	6541	Lord Lisgar, etc.
		2,575.00	"	4382	Wm. Vannort
		1,170.00	"	1347	Thomas W. Levering, Trus- tee
		5,248.70	"	1359	Josiah F. Smith
		4,375.17	"	544	Edward Mayo, Exr.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1904				
Dec. 29	\$ 371.67	2815	345	John R. Taylor
	837.13	"	4791	R. M. Kent, Trustee
	500.00	"	8394	James Lyons, Commr.
	833.33	"	3976	Machurg Wickham
	612.56	"	1918	G. J. Bechtel & Son
	3,833.33	"	4588	George Arlingstall
	332.50	"	3153	A. B. Hagner, Admr.
	263.84	"	6040	John Lyle, Admr, Adeline Golden
	702.66	"	8042	J. A. Wingfield, Shff. & Adm
	148.46	"	8047	do
	1,361.67	"	123	Louis C. Fischer, Trustee
	273.78	"	6978	B. Hancock
(page 63)	3,533.33	"	4462	Edward Mayo, Commr.
	133.00	"	2468	R. M. Kent, Trustee
	100.00	"	6707	Charles C. Trahne, Trustee
	62.83	"	5549	P. M. Thompson
	488.90	"	5897	Isaac Fanke
	70.00	"	7569	Lewis Booker, Admr.
	386.66	"	7568	do
	3,273.33	"	7567	do
	6,711.08	"	9116	Robert H. Jenkins
	70.00	"	4353	John N. Bell
	2,145.46	"	8212	John Dean
	200.00	"	10903	Wilson Colston & Co.
	200.00	"	2882	Rev. C. W. Petherbridge
	500.00	"	10870	L. H. Niles
	958.32	"	5212	Tutien Nolthenius & de Haan
	766.66	"	3829	Baltzer & Taaks
	766.67	"	6641	J. S. Kennedy & Co.
	5,080.00	"	3880	Rich'd Irvin & Co.
	1,533.33	"	3868	do
	1,000.00	"	3764	Wilson Colston & Co.
	1,000.00	"	9997	Jno. B. Manning
	5,000.00	"	10295	W. F. Sebert
	3,833.33	"	6627	H. Gibbon
	11.98	"	10642	A. Keyser
	100.00	"	7402	Robinson, Chase & Co.
	9,722.93	"	4553	Madame Anne Marie Bonnetain, etc.
	383.33	"	898	Jan Van der Hoop & Toon
	1,662.46	2815	2709	J. & M. Rosenbaum
	1,600.00	"	7804	Tarquiroo Torquaida Canara Lomilius
	385.78	"	8835	First National Bk., Pitta

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1906				
	2,216.67	2815	1192	Wiesenfield & Co.
	2,801.33	"	1186	do
	5,000.00	"	6166	Robert Garrett & Sons
	5,000.00	"	8070	do
	500.00	"	10762	Wilson Colston & Co.
	500.00	"	11045	R. H. Maury & Co.
	10,000.00	"	11093	Pearl & Co.
	522.79	"	3028	Mary J. Ellis
	833.33	"	3668	John Kaye
	81.67	"	3448	H. Amy & Co.
	2,478.68	"	3322	De Rothschild Bros.
	2,102.06	"	8245	Robert Garrett & Sons
	7,020.04	"	9008	do
	2,125.00	"	2002	James Spicer
	2,600.00	"	1971	Willis & Co.
	66.67	"	4834	L. Von Hoffman & Co., Trustee
	977.13	"	1909	Sarah E. Barr
	2,591.67	"	10128	C. E. Matthews
	1,000.00	"	6327	Robert Garrett & Sons
	851.13	"	1783	Wm. Seldon, Exr.
	8,300.00	"	9403	Robt. Garrett & Sons
	700.00	"	10937	John B. Manning
	383.33	"	924	Jan Van der Hoop & Toon
	608.33	"	626	do
(page 64)	3,833.33	"	8264	Johnston, Perry & Co.
	616.33	"	11123	J. B. Manning
	1,980.66	"	7420	De Rham & Co.
	3,033.01	"	11144	John H. Kahke
	4,393.33	"	3444	Geo. Thompson Mitchell
	51.67	"	3356	H. Blydenburgh
	1,916.67	"	6720	James G. King's Son
	601.66	"	5037	Tutien Nolthenius & de Haan
	317.33	"	2219	Charles Cottrell
	236.66	"	5725	E. Wortham & Co.
	19.69	"	10986	J. B. Manning
	1,153.55	"	6835	Margaret C. Provest
	1,110.14	"	4282	H. Amy & Co.
	100.00	"	1671	Vermilye & Co.
	100.00	"	1673	do
	438.00	"	6479	James Coates
	83.33	"	2152	Chas. Mason
	80.00	"	5168	Baltzer & Taaks
	4,556.85	"	8661	Robt. Garrett & Sons

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1904				
Dec. 29	\$ 3,662.27	2815	145	Geyer & Wilkins
	2,746.67	"	1188	Weisenfeld
	158.33	"	2601	Elizabeth Jennings
	447.47	"	2789	John N. Ryland
	63.70	"	11057	J. B. Manning
	3,344.56	"	9768	Brown Loundes
	555.07	"	2121	De Rhain & Co.
	571.67	"	2744	S. Stein
	702.66	"	1776	A. J. Bondurant
	221.66	"	1376	Benjamin Haas
	3,000.00	"	9831	R. A. Lancaster & Co.
	766.66	"	8354	Thomas McComas & Co.
	33.34	"	1325	Van Schaick & Co.
	150.00	"	376	Lockwood & Co.
	1,015.00	"	56	H. Amy & Co.
	333.33	"	9561	Levy & Borg
	383.33	"	4332	James Robb King & Co.
	1,545.00	"	453	D. S. Stein
	7,659.92	"	2314	Baron Alphons Mayer de Rothschild
	2,750.00	"	8713	G. W. C. Lee
	10,000.00	"	10519	J. S. Wells
	10,000.00	"	8609	Robt. Garrett & Sons
	6,500.00	"	8820	do
	1,570.72	"	3038	Benjamin Sheppard
	127.00	"	6901	Wm. H. Twyman
	1,110.13	"	7417	De Rhain & Co.
	1,500.00	"	11047	R. H. Maury & Co.
	132.98	"	6760	Ella R. Jarvis
	420.00	"	6857	Baltzer & Taaks
	2,000.00	3364	2356	William Graham
	2,500.00	3365	2353	do
	5,000.00	3366	10927	Asiel & Co.
	555.07	3367	2985	Huffer, Toel & Co.
	10,000.00	2817	11094	Pearl & Co.
	5,000.00	2818	6134	Robert Garrett & Sons
(page 65)	8,000.00	2819	212	B. G. Arnold
1905				
Jan. 5	1,000.00	2834	1052	Stern Bros. of London
	1,000.00	"	1100	do
	1,000.00	"	1101	do
	1,000.00	"	1102	do
	1,000.00	"	1103	do
	1,000.00	3609	1104	do
	1,000.00	3610	1105	do

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1905					
Jan.	5	\$ 1,000.00	3611	3688	Chas. Hirst, Huddersfield, Yorkshire, England
		1,000.00	3612	3689	Chas. Hirst, Huddersfield, Yorkshire, England.
		1,000.00	3613	3689	do
		1,000.00	2836	3714	do
		1,000.00	2836	3717	do
		5,000.00	2837	9814	Hallgarten & Co.
		5,000.00	2838	10443	J. B. Manning
		5,000.00	2839	11004	I. & S. Wormser
		1,900.00	3840	8256	Isaac S. Twymann, et al, Trustees
		1,960.00	"	7405	do
		1,533.33	"	9904	C. F. Wrenn
		435.34	2841	9903	do
		5,026.83	2844	2013	Remus G. Dorsey
		3,383.77	2841	10002	Elizabeth G. Whipple
		191.67	"	6956	James G. King's Sons
		1,105.27	"	326	Henry Parnell Moore Jeop- ard of London
		24,275.00	2845	1655	Hope & Co., in Amsterdam
		266.67	2843	3501	John James Kerr, Scotland
		2,683.33	"	2508	do
		56,534.67	2846	2411	do
		198.33	2843	3472	Alice B. Robinson
		84.66	"	6900	Isaac S. Twyman
		1,656.07	"	2555	Virginia Fire & Marine In- surance Company.
		341.67	2843	3632	Geo. Henry Greenwood, England
		5,000.00	2448	1957	Francis Henry Mitchell
		1,000.00	2847	3380	Abraham Morrell
		1,000.00	"	3379	do
		1,000.00	"	3381	do
		1,000.00	"	3384	do
		5,000.00	2849	6006	Robt. Garrett & Sons
		5,000.00	"	5986	do
		1,000.00	2847	7168	Chase & Higginson
		1,000.00	"	7169	do
		1,000.00	"	7170	do
		1,000.00	"	7171	do
		1,000.00	"	7172	do
		1,000.00	"	7179	do
		5,000.00	2850	7248	do
		5,000.00	"	7889	Charles George Wilson

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1905				
Jan. 5	\$10,000.00	2851	8052	Robt. Garrett & Sons
	2,000.00	3403	9161	do
(page 66)	1,000.00	3405	8199	Johnston Brothers & Co.
	1,000.00	"	10381	L. H. Niles
	1,000.00	"	10537	do
	10,000.00	2853	8573	Robt. Garrett & Sons
	10,000.00	2854	9548	Rail & Kraxton
	10,000.00	2863	9713	John B. Manning
	1,000.00	3104	9916	H. C. Hardy & Son
	1,000.00	3405	9929	John B. Manning
	1,000.00	3406	10278	W. F. Sebert
	1,000.00	3407	10279	do
	1,000.00	3408	10405	do
	1,000.00	3648	10641	A. Keyser & Co., of London
	5,000.00	3649	9867	John Bloodgood & Co.
	1,000.00	3650	10194	F. F. Redwood
	1,000.00	3651	10355	John Malcolm of Belfast, Ireland
	10,000.00	2857	10389	J. B. Manning
	10,000.00	2858	10834	H. L. Gun
	1,000.00	3652	10916	Morton Rose & Co. of Lon- don
	5,000.00	2859	11074	W. F. Sebert
	10,000.00	2860	11089	Pearl & Co.
	5,000.00	2859	11105	J Harmanus Fisher & Sons
	500.00	3653	11035	Wilson Colston & Co.
	500.00	3654	9764	do
	5,000.00	2861	10678	Oalrick & Co.
	1,555.46	2862	4057	Lucy T. G. Williams
	6,133.33	"	5103	Hugh Ross of Edinburg
	2,312.61	"	9523	Thomas J. Flack, et al.
10	10,000.00	2864	10493	J. S. Wells
	5,000.00	2865	3106	R. L. Anderson, Jr.
	5,000.00	"	10756	Chase & Higginson
	5,000.00	2866	11052	Medwin & Clarke
	5,000.00	"	11054	do
	4,000.00	2867	1631	John G. McMurray
	1,000.00	"	10875	A. Fletcher
	200.00	2869	2432	Francis Leaver, of Longner Hall, Pankridge, Eng.
	4,500.50	2868	8593	Mrs. Sarah A. Griffith
	2,216.67	2869	3104	Thomas K. Mills
	2,033.33	"	4063	Henry Clews & Company
	191.66	"	2388	M. Morgan Sons
	556.20	"	3436	C. H. H. Brown
	1,150.00	"	3505	do

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1905				
Jan. 10	\$ 133.33	2869	6809	Asa Rogus, Jr.
	353.00	"	9808	Thomas C. Jenkins
	493.33	"	8488	Gilmore Dunlap & Co., of Cincinnati
	1,604.91	"	7308	Seth Caldwell, Jr., and John T. Heard, Exrs.
	201.14	"	7064	M. M. Lyons, Extrx. of Wm. H. Lyons
	446.56	2869	4636	Mary S. Hatcher
	422.07	2868	3558	Susan M. Fitzhugh
	398.75	2869	2717	Mary J. Hightower
	10,000.00	2870	11092	Pearl & Co.
(page 67)	10,000.00	2871	9694	J. Harmanus Fisher
	10,000.00	2872	10720	J. B. Manning
	5,000.00	2874	10228	R. A. Lindsay
	5,000.00	"	6497	John B. Manning
	5,000.00	2875	5880	Thomas C. Jenkins
	3,000.00	"	11112	Ridgley Duvall, Jr.
	2,000.00	"	10555	Wilson Colston & Co.
	1,000.00	2876	5249	Julius S. Hitchcock
	1,000.00	"	3775	H. Amy & Co.
	1,000.00	"	6086	Louis Struller
	1,000.00	2876	11084	Thomas Branch & Co.
	1,000.00	"	8197	Johnston Brothers & Co.
	8,092.87	3645	1617	Jane E. Harper
	762.00	3646	11147	W. H. Lucke
	1,872.43	2981	8061	Robert Garrett & Sons
	1,996.67	"	7783	J. G. & G. C. Ward
	1,150.00	3647	4539	R. Raphael & Sons, London
	83.33	2981	3307	Richard T. Allison
	4,334.13	"	93	Frances Cornelia Taliaferro
	1,725.00	"	7533	J. S. Kennedy & Co.
12	1,000.00	3011	10271	W. F. Sebert
	1,000.00	3012	10270	do
	1,000.00	3013	9719	Jno. B. Manning
	1,000.00	3014	9718	do
	1,000.00	9717		do
	1,000.00	3015	9717	do
	1,000.00	3016	10566	J. S. Wells
	1,000.00	3017	3690	Chas. Hirst, Huddersfield, Yorkshire, England
	1,000.00	3018	3691	do
	1,000.00	3019	3692	do
	357.96	3020	10662	J. B. Manning
	132.37	3021	10704	do
	509.67	3022	10534	J. S. Wells

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1905				
Jan. 16	\$ 4,105.73	2882	7837	Henry Ludlam
	1,826.26	2883	5331	Sarah C. Booton
	1,826.26	"	5332	Mary E. Booton
	761.53	"	4151	Dabney C. Wirt
	500.00	2882	2292	Helen Welmer
	400.00	"	2293	do
	2,000.00	2884	8841	Alexander Rieman
	4,000.00	2885	8485	do
	5,000.00	2886	10926	Asiel & Co.
	5,000.00	2887	10189	Julius S. Hitchcock
	5,000.00	2888	10841	L. H. Niles
	5,000.00	2889	10626	R. F. Tyson & Co.
	5,000.00	3548	10306	R. S. Chamberlaine
	5,000.00	2891	10227	R. A. Lindsay
	5,000.00	2892	10225	do
	5,000.00	2893	7953	Robert Garrett & Sons
	5,000.00	2894	8660	do
	1,000.00	2895	10962	J. B. Manning
	4,000.00	"	10951	Charles Hazard
	10,000.00	2896	10780	John C. Williams, Cash.
	10,000.00	2897	8896	Robt. Garrett & Sons
	10,000.00	2899	3216	Knickerbocker Life Insurance Company
(page 68)	1,776.21	2900	6279	Phillipp Belien of Callean, Pyrenees, Orientales.
17	1,993.06	2901	571	Capt. William Rollins
18	1,000.00	2902	2742	S. Stein
	1,000.00	"	10703	Marx & Co.
	1,000.00	"	10432	Vermilye & Co.
	1,000.00	"	10582	J. S. Wells
	333.33	"	928	J. H. Foster
	4,000.00	"	6778	Tho. H. Oliver
	1,150.00	"	3878	William Meyer of New York
	127.00	"	5750	Tucker & Leighbowne
	396.66	"	5726	do
	228.60	2903	8351	John C. Maben
	595.00	"	2832	Robert Wright of London, England
24	1,000.00	2909	789	Clark Dodge & Co.
	744.00	2911	788	do
27	1,693.34	2913	240	Daniel Low
Feb. 3	2,000.00	2914	10114	Wilson Colston & Co.
	1,000.00	3550	9199	Levy & Borg
	1,000.00	"	3971	John Elliott of New York
	1,000.00	"	9813	R. A. Lancaster & Co.
14	5,000.00	2918	1949	John K. Gilliat & Co.

		Our Ctf.		REGISTERED IN NAME
DATE	AMOUNT	Number	NUMBERS	
1905				
	5,000.00	2919	3341	Robt. B. Bolling
	5,000.00	2920	4917	W. W. Lucke
	5,000.00	2921	5241	Julius S. Hitchcock
	10,000.00	2922	8185	John Smith
	5,000.00	2923	9761	R. A. Lancaster & Co.
	5,000.00	2924	10119	Jno. C. Williams, Cash.
	10,000.00	2925	10511	J. S. Wells
	5,000.00	2926	10770	W. F. Sebert
24	439.00	2933	7453	Bellise Urhlaub
Mar. 6	56.90	2942	7351	Brown Lancaster & Co.
April 24	5,000.00	2943	6328	Richard Irvin & Co.
	5,000.00	2944	5329	do
	5,000.00	2945	6330	do
	5,000.00	2946	6331	do
	886.66	2947	6332	do
May 10	1,916.66	2948	5224	Henry Clews & Co.
23	951.24	3353	5893	Catherine Lacy, Admx.
June 26	5,000.00	2950	1157	W. R. Nofsinger
July 3	439.00	2954	7450	Otto Urhlaub
	439.00	"	7449	Leo Urhlaub
8	1,163.33	2955	1543	Lewis A. Brengle
28	1,900.00	2962	6316	Maria F. Anderson, Wm. McCouch and Horatio Gates, Exrs. of Thos. F. Hill, decd.
	200.00	"	6317	Geo. W. Anderson
Aug. 18	773.33	2963	7211	Wm. & John O'Brien
	4,443.33	2964	2482	Horace Waters
Sept. 14	317.07	2966	5016	William Brown
Oct. 4	150.00	2976	8697	James McChesney, M. D.
	705.00	"	8705	do
6	2,307.50	2977	9123	Lawrence Mendenhall, Trus. for Elizabeth S. Menden- hall u-w of Margaret Maule
Oct. 24	2,242.20	2982	6654	John Arbuthnot and Robert Chure, with benefit of survivorship.
(page 69)	2,491.33	2983	4929	Robert Von Glenn
30	1,069.45	2987	8234	G. L. Summers
	1,069.45	"	8235	A. E. Summers, Exr.
Nov. 8	846.66	2988	850	Daniel Low
	832.89	2989	4475	Lancaster Brown & Co.
	92.98	2990	5098	do
	250.00	2991	4741	E. W. Skelton
	978.33	2992	5894	C. M. Welstead

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1905				
15	5,735.00	2993	1140	Patrick Quinn
	1,000.00	2994	7529	J. B. Manning
	5,000.00	2995	10426	do
	1,000.00	2996	3358	H. Blydenburg
27	5,000.00	2999	10957	L. H. Niles
Dec. 4	3,765.00	3006	6294	Edward Lee Childs
7	1,000.00	3008	1078	Stern Brothers
9	353.33	3010	3547	Chas. W. Slagle
12	70.00	3032	6363	Chas. U. Cotting, Exr.
	9,000.00	3033	6149	Isaacs Taylor & Williams
	1,348.50	3034	3977	Marx & Co.
14	1,000.00	3037	2527	A. Goettel & Co.
	551.73	3038	2589	do
	353.33	3039	5767	H. Amy & Co.
22	958.66	3046	6274	David Henry Small
	76.67	3197	794	Henry French
	1,000.00	3198	795	do
	1,000.00	3199	796	do
	1,000.00	3203	797	do
	500.00	3203	798	do
	100.00	"	799	do
	100.00	"	800	do
	1,000.00	3049	9197	Levy & Borg
	1,000.00	3050	9198	do
	1,000.00	3061	10434	Max Meyer
	1,000.00	3052	5246	Julius S. Hitchcock
	1,000.00	3053	7844	D. Fahnestock
	5,000.00	3054	10740	L. H. Niles
				(Our. ctf. issued as 10744.)
	5,000.00	3055	10666	Edward Cohen
	5,000.00	3056	10099	R. H. Maury & Co.
	5,000.00	3057	10097	do
	5,000.00	3058	10153	do
	5,000.00	3059	10094	do
1906	7,366.67	3060	1423	J. C. Bell
Jan. 3	496.46	3064	6983	Hopkins & Brothers
4	5,000.00	3065	9620	F. T. Redwood
	2,775.33	3066	784	Henry Linde
	3,333.34	3067	8491	Joseph W. Taylor
	1,100.00	"	8492	do
6	825.18	3068	744	Elizabeth McCauley
10	1,435.73	3069	4308	Mrs. Harriet P. Nash
16	786.67	3070	3342	Chas. P. Smith and Rev.
				Francis F. Reasley
	5,415.00	3071	2688	James Robb King & Co.
24	5,000.00	3075	10549	L. Von Hoffman & Co.

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1906				
(page 70)	29	1,615.00	3353	2362 J. R. Corbett
		958.33	3077	5236 Alfred Marshall
		5,000.00	3078	10061 R. H. Maury & Co.
		3,833.33	3079	7361 Cammann & Co.
		499.16	3080	4141 Ward & Co.
		499.17	3081	4140 do
		5,286.67	3082	1729 James G. King's Sons
	31	100.00	3090	6706 Charles G. Trabue
	Feb. 8	3,138.40	3091	3536 Ann Eliza Watts
	9	4,000.00	3094	1197 Joseph O'Brien
Mar.	14	1,150.00	3095	4218 Morris Prevost & Co.
		383.33	"	4220 do
		5,000.00	3096	10292 W. F. Sebert
		5,000.00	3097	10713 L. H. Niles
		1,905.00	3098	6610 J. S. Kennedy & Co.
	26	30.00	3099	1658 J. R. Corbett
		5,000.00	3100	10637 A. Keyser & Co.
	28	5,000.00	3101	9964 R. H. Maury & Co.
	2	636.13	3102	1178 Mrs. B. Wiesenfeld
		2,270.00	3103	1353 do
April	9	5,000.00	3109	9572 Rail & Kearton
	12	9.00	3110	4494 W. H. Savidge
		100.00	3111	4496 do
		100.00	3112	4495 do
		100.00	3113	4497 do
	13	913.33	3114	7073 The County School Board of Chesterfield Co.
	14	110.63	3115	10620 R. A. Lancaster & Co.
		1,000.00	3116	10622 do
		1,000.00	3117	10621 do
		465.67	3118	4381 A. Warwick, Jr.
	20	1,866.67	3482	188 Geo. W. Phillips
	2	6,972.76	3121	6291 Mildred Ann Cutter
	16	2,750.00	3128	8710 Mary C. Lee
		2,750.00	3129	8709 do
		2,750.00	3130	8712 W. H. F. Lee
	18	1,000.00	3131	10867 Clarke Dodge & Co.
		1,000.00	3132	10866 do
	19	5,000.00	3133	9571 Rail & Kearton
		75.00	3134	9244 do
		1,533.33	3135	4812 Samuel Benjamin
	21	3,333.33	3136	9601 Henry S. and J. W. Garrett, Ers.
	28	5,000.00	3137	11106 J. Harmanus Fisher
	30	4,503.53	3138	735 Rev. S. S. Roszell
		1,785.00	3353	3830 Julia S. Smith

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1906				
May 2	6,598.13	3140	4832	Hugh Blair Grigsley
12	5,000.00	3141	9836	John Bloodgood & Co.
17	1,000.00	3146	2931	Stern Brothers
	1,000.00	3147	2930	do
	1,000.00	3148	2929	do
	1,000.00	3149	2932	Stern Brothers
	1,000.00	3150	2933	do
	5,000.00	3151	9097	G. T. Bonner & Co.
May 17	5,000.00	3152	9739	R. H. Maury & Co.
(page 71)	5,000.00	3153	9788	Wilson Colston & Co.
	5,000.00	3154	6691	do
	5,000.00	3155	9538	Rail & Kearton
	1,176.66	3156	4870	Henry Clews & Co.
18	1,000.00	3157	9708	John B. Manning
22	488.00	3158	2779	George Sirian and Eleanor E. his wife.
June 19	1,150.00	3160	4090	Clement Geitner
	1,388.33	3161	4505	John M. Forbes, Francis F. Forbes and Alfred T. Forbes, Exrs. of Murray Forbes, decd.
22	1,000.00	3166	3640	James Coates
	1,000.00	3167	3641	do
	1,000.00	3168	3642	do
	1,000.00	3169	3643	do
	1,000.00	3170	3644	do
	1,000.00	3171	3645	do
	1,000.00	3172	3646	do
	1,000.00	3173	3647	do
July 7	357.00	3174	1464	Maria A. McDowell, Extx. Est. of Edwd. McDowell.
17	5,000.00	3177	6618	W. W. Corcoran
	5,000.00	3178	9026	J. Harmanus Fisher
	5,000.00	3179	5281	Wilson Colston
	5,000.00	3180	9900	John Bloodgood & Co.
	2,000.00	3181	9992	James P. Thomas
	1,000.00	"	1077	Stern Brothers
	1,000.00	"	2238	J. & J. Higgin
	1,000.00	"	3702	Chas. Hirst, Huddersfield
	1,000.00	3182	10403	W. F. Sebert
	1,000.00	3183	9655	G. T. Bonner & Co.
	1,000.00	3184	10383	L. H. Niles
	1,000.00	3185	5248	Julius S. Hitchcock
	1,000.00	3186	10406	W. F. Sebert
	1,000.00	3187	10864	Jno. C. Williams
	1,000.00	3188	10445	J. B. Manning

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1906					
July	17	\$ 1,000.00	3189	10958	L. H. Niles
		193.67	3339	2375	H. Amy & Co.
		2,196.27	3338	2670	W. C. Crawford
		790.00	3338	9315	James Brown
		806.66	3339	3367	Richd. Irvin & Co.
		1,003.73	3338	2604	Henry Bowen
		3,613.33	3338	3015	James Robb King & Co.
		867.48	3339	4733	Saml. M. Pleasants
		2,706.67	3339	6823	Baltzer & Taaks
		396.67	3338	7425	De Rham & Co.
		180.00	3339	4256	H. Amy & Co.
		671.33	"	876	Mrs. James Brooks
		79.33	"	1606	S. G. Peyton
		76.66	"	7798	A. M. Fleming
		166.66	3339	7799	A. M. Fleming
		3,328.33	"	2958	R. K. Harvey
		280.67	3353	2800	J. C. Engelbrecht
July	31	8,803.57	3192	3404	J. Cary Weston
(page 72)		2,281.50	3193	6102	do
Aug.	7	114.30	3194	6337	Solomon Dyrenforth
		1,191.66	3195	5756	do
	9	455.07	3196	4213	Lyeurgus Baker
	21	333.33	3205	8706	Wm. A. Williams
		50.00	"	8707	do
		1,821.83	3353	4373	Robert Currie
	27	1,099.33	3209	443	Saco & Biddeford Sav. Inst.
Sept.	6	4,991.67	3213	4523	Nellestyne & Co.
	27	211.50	3224	636	Charles Y. Morriss, Exr. of R. G. M.
		129.00	3225	2526	Charles Y. Morriss, Exr. of R. G. Morris, Trustee u-w of C. S. Morris.
		107.67	3226	635	Richard G. Morris, Gdn. of A. L. M.
		1,526.33	3227	634	Richard G. Morris, Tr. U-W of C. S. Morris
		3,333.33	2328	9228	John Howard, Special Comr. of the Chancery Court of the City of Richmond.
		403.32	3229	9583	do
		3,333.33	3230	9401	do
		5,043.62	3231	9582	do
Oct.	4	249.13	3232	3896	Sally A. F. Hodges
		1,374.17	3233	4614	Wm. H. Wilson, Jr.
	18	793.33	3234	631	J. D. Blackwell

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1906				
Nov. 1	1,000.00	3239	3631	Rev'd. de Courcey Meade
	533.33	3240	3630	do
13	5,160.00	3241	3012	Hiram Miller
	147.14	3242	6815	Emily Funston
	366.66	3243	6098	Wm. A. Davis, Tr. for Lucretia Hopkins and Lucy Ann Hyde.
22	291.33	3244	4178	Mathew Harrison, Admr. of Alice B. Harrison
Dec. 6	2,307.49	3245	9122	John H. Tyler, Tr. for Caroline Ege, u-w Margaret Maul.
1907				
Jan. 10	10,000.00	3248	7972	Robert Garrett & Sons
	5,000.00	3249	10997	I. & S. Wormser
	5,000.00	3250	10879	Boully & Thompson
21	1,803.08	3251	5	Mrs. Sarah M. Clutter
Feb. 7	202.47	3258	7338	John P. Montgomery
Mar. 5	766.67	3353	4985	Northern & Durham
7	1,000.00	3266	10219	Jerome N. Bonaparte
April 5	1,433.33	3267	4239	D. H. Miller and J. M. Brooker, Trus. M. J. Read
	265.27	3268	4240	Mary J. Read
8	97.33	3485	6935	Mary A. Coleman, Extr.
	97.33	"	6934	do etc.
	687.45	3270	1603	Miss M. E. Cason
16	816.18	3271	1590	Isaac G. Cason
(page 73)				
April 29	5,000.00	3272	9905	Jno. B. Manning
July 22	350.00	3283	3845	August Rolker & Sons
30	133.00	3284	2104	Sigmund Haas
Sept. 19	8,095.00	3287	2410	Mrs. S. Saville
	3,338.00	3288	3406	Peter D. Posey
Oct. 3	845.24	3289	4369	James K. Davney and Sarah E. Davney, his wife.
21	5,000.00	3298	1951	John K. Gillat & Co.
Dec. 26	5,000.00	3315	3735	Isaacs Taylor & Williams
	5,000.00	3316	9877	John Bloodgood & Co.
27	1,099.33	3324	762	Henrietta Clowes
	529.67	3325	766	Mary Ann Mason
30	5,000.00	3326	9946	R. H. Maury & Co.
	5,000.00	3327	10059	do
	5,000.00	3328	10170	Frances White
	5,000.00	3329	9889	John Bloodgood & Co.
	5,000.00	3330	9776	John B. Manning
	5,000.00	3331	9748	Harry A. Orriek

		Our Ctf.			
DATE		AMOUNT	Number	NUMBERS	REGISTERED IN NAME
1908					
Jan.	4	456.57	3332	180	Catherine Keppler
	20	699.09	3333	10827	Genevieve Currie
	21	1,983.33	3334	3893	Penna. Co. for Ins. etc.
	27	5,000.00	3335	9892	John Bloodgood & Co.
		5,000.00	3336	9896	do
		5,000.00	3337	4165	W. H. McFarland, Jr.
Feb.	17	2,300.00	3340	6920	James G. Kings Sons
Mar.	5	200.00	3344	3616	Henry Clews & Co.
	7	5,167.93	3345	2056	Chas. H. Carter
	16	54.13	3346	3352	John Rangeley
		427.67	3347	3351	do
April	20	833.33	3482	3945	John W. Wright, Adminis- trator of John McPherson for benefit of Jane Lacy.
	21	460.20	“	2509	Joseph T. Priddy of Han- over
	29	876.00	3360	3186	Elizabeth O. Dance
April	29	\$ 506.00	3360	4843	Elizabeth O. Dance
May	27	2,020.53	3375	4831	Thos. Chambers
	28	345.00	3482	3371	Miss Anna Maria Harrison
June	18	91.39	3483	9147	Maria Champ Bell
		100.00	“	9771	do
July	1	659.97	3380	3815	Jno. H. D. Wingfield
	18	175.56	9438	3383	Miss E. A. Carson
		928.54	1211	3384	Elizabeth A. Carson
	21	5,000.00	10106	3385	R. H. Maury & Co.
		5,000.00	10155	3385	do
		5,000.00	10298	3385	W. F. Sebert
		5,000.00	10299	3385	do
Aug.	26	569.06	2464	3388	John McKenna
Sept.	25	3,336.66	3483	374	N. Y. Life Ins. Co.
		684.85	3392	2273	Leroy D. Terrell
		766.66	3482	430	George S. Nace
Oct.	27	5,000.00	3397	8529	John Black
		1,000.00	3398	3485	Thomas B. Nalle
		1,000.00	“	3483	do
		1,000.00	“	3484	do
(page 74)		5,000.00	3398	3486	Thomas B. Nalle
		908.32	“	3480	do
Nov.	20	1,100.00	3401	1985	Pauline M. Price
Dec.	2	134.80	3402	6732	W. D. Gibson, Tr. A. H. Gibson
	30	380.00	3410	4367	Kitty Lloyls
		133.00	3411	5554	do

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1909					
Jan.	18	2,220.27	3412	726	W. Raymond Sanderson
Feb.	6	66.67	3413	7828	Geo. Peabody Russell, Robt. Singleton Peabody and Chas. W. C. Landler
	10	966.55	3416	4443	Cordelia G. Cosby
	19	10,000.00	3419	8544	William G. Harrison
		314.67	3420	2060	W. G. Harrison in trust.
Mar.	4	5,000.00	3421	11104	J. Harmanus Fisher & Son
	5	4,600.00	3422	4896	R. Rafael & Son, London
	13	453.70	3423	8243	A. G. Brown, M. W. Bennett, Trustees for the Hall Fund.
		2,110.33	3424	580	Wm. M. Radford, Committee for Nathaniel Burwell, Jr.
May	11	1,533.33	3427	3361	Ward M. Gazlay
	27	890.53	3433	4498	George T. Jackson
June	5	515.75	3435	4730	Miss Sarah H. Michie
July	9	2,312.60	3445	9522	James W. Flack
	12	555.33	3446	6600	W. L. Weston, Trustee.
July	19	\$ 5,000.00	3447	8761	Wilson Colston & Co.
		50.00	3448	3897	Robert T. Haws
	31	191.67	3449	4984	Edwin John Heropath of Kidbrook Park, Blackheath.
		201.67	“	4863	James Robb King & Co.
		19.95	“	6825	Messrs. DeRothschild Bros. of Paris
		19.95	“	6826	do
		19.95	“	6827	do
		19.95	“	6824	do
		786.67	“	4793	Messrs. DeRothschild Bros.
	28	1,000.00	3451	10316	L. H. Niles
		1,000.00	“	10242	Drexel, Morgan & Co.
		1,000.00	“	10213	Charles G. Bonaparte
		1,000.00	“	10159	R. H. Maury & Co.
		1,000.00	“	2926	Stern Brothers
		5,000.00	3452	5242	Julius S. Hitchcock
Sept.	13	863.47	3453	4723	Jos. W. Morris, Trustee for Sarah H. Michie u-will of Nancy Morris
Oct.	8	1,625.67	3454	2166	Robert W. Haws of London
	18	1,824.66	3455	7040	Michael Towers
Dec.	20	1,598.33	3505	4295	Thos. Cheatham
	22	475.62	3506	2904	Ann Nash

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1910					
Jan.	4	2,206.66	3507	5265	Turner Brothers
Feb.	2	2,618.33	3508	6727	James G. King's Sons
	28	16.34	3509	359	Wm. H. Mosby, Trustee for his wife, Eliz. F. Mosby
Mar.	4	667.00	3515	948	See stub of
	4	2,036.67	3516	3190	Va. Dfd. Ctf. Book
	7	5,000.00		7254	Chase & Higginson
	19	500.00	3518	3865	H. Amy & Co.
(Non. Neg.)					
(page 75)					
	22	443.33	3520	3562	Louis D. Jones
		1,055.00	3519	1215	L. D. Jones
		50.00	"	6932	L. D. Jones
		300.00	3523	1216	Louis D. Jones, Adm. of S.
		239.40	"	3563	C. Legrand
April	6	165.33	3524	6774	Rebecca B. Tunis
		3,127.00	3531	649	Rebecca B. Tunis, during her widowhood with re- mainder to her children, Lewis Tunis, Franklin W. Tunis and Robert Tunis.
		2,937.95	3532	658	Mrs. Rebecca B. Tunis
	12	5,602.89	3526	1725	Wm. Selden, Extr. of Char- lotte Selden
		11,894.24	3527	1719	Wm. Selden of Norfolk
May	4	575.00	3528	6091	J. S. Kennedy & Co.
	24	384.35	3535	160	E. B. Hooft
June	7	3,657.60	3536	6714	Madame Felix Ricketts
Sept.	24	2,613.33	3542	759	J. V. Knight
Dec.	21	201.71	3556	1373	Amanda Lumpkin
	31	176.15	3557	791	City of Williamsburg
1911					
Feb.	1	1,000.00	3560	10594	H. Amy & Co.
	20	261.53	3566	4676	Mary E. Brooks, wife of Wm. Brooks
Mar.	10	100.00	3569	5291	Charles W. Purcell
	14	117.00	3570	540	Maria Blair
	21	2,775.33	3598	3975	James Dunlop, Exr. Miss Elizabeth Dick
		383.34	3599	1232	John Carle, Jr. New York
	22	213.33	3600	6828	Daniel Annan Cash
	24	29,862.59	3606	3979	James Dunlop, Georgetown, D. C.
April	1	5,000.00	3614	2913	James Tinker
		10,000.00	3615	6234	James P. Thomas & Son

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
3	3,533.33	3618	4396	Louisa B. Wilkins of Brunswick. Not transferable except by order of the Circuit Court of Brunswick
11	1,000.00	3644	1654	Rutten & Bonn
15	566.66	3657	5962	D. R. Stokes, Gdn. of Sarah G. and Lucy A. Stokes

(page 76) DEPOSITS OF VIRGINIA DEFERRED CTFS. ISSUED
UNDER ACT 1879.

(Principal and Interest.)

1898.		RECEIVED.			
Aug.	25	333.33	40	39	Bearer
	31	6,346.67	46	112	do
Sept.	16	1,916.66	251	263	do
		3,066.67	252	262	do
	26	1,733.33	314	240	do
Oct.	4	383.33	345	352	do
		333.33	346	290	do
	14	166.67	420	159	do
	18	5,833.33	441	223	do
	31	20.00	537	314	do
		18,333.33	2956	94	do
		11,000.00	2957	166	do
		833.33	539	167	do
		104.17	"	165	do
Nov.	1	125.00	540	278	do
		1,000.00	540	297	do
		1,430.00	682	309	do
		4,666.67	682	304	do
		2,000.00	682	294	do
		41.66	683	279	do
		6,666.67	"	288	do
		2,000.00	542	95	do
		5,833.33	543	284	do
		35.47	630	229	do
		1,080.00	506	70	do
		1,666.67	544	27	do
		1,666.67	"	28	do
		250.00	"	29	do
		3,666.67	"	115	do
		1,900.00	"	191	do
		283.34	"	277	do
		104.17	"	282	do

		Our Ctf.			
DATE		AMOUNT	Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	1	1,333.33	544	292	Bearer
		833.33	545	65	do
		371.66	"	119	do
		160.87	"	214	do
		650.00	697	161	do
		169.33	"	140	do
	5	166.67	697	135	do
		1,500.00	"	126	
		1,450.00	704	64	
		23.33	699	82	
		42.33	"	213	
		596.67	"	215	
		9,666.66	704	61	
		1,862.50	713	164	
		12,500.00	"	168	
		1,500.00	547	180	
(page 77)					
	5	3,000.00	547	176	Bearer
		2,166.67	"	149	
		2,166.67	"	150	
		2,333.33	"	179	
		6,666.67	"	178	
		666.67	"	43	
		333.33	"	47	
		333.34	548	298	
Nov.	5	\$ 1,050.00	548	283	Bearer
		10.00	"	55	
		25.40	"	204	
		875.00	"	305	
		9,500.00	549	88	
		333.33	727	245	
		1,333.33	"	184	
		2,000.00	"	50	
		34.66	812	118	
		276.67	"	137	
		858.66	"	69	
		1,000.00	"	274	
		1,225.00	816	7	Thomas Branch & Co.
1899					
Mar.	16	373.34	878	45	Bearer
		333.33	"	316	do
Oct.	17	19,333.33	1024	92	do
		39.17	"	107	
		83.33	"	108	
		358.33	"	251	
		21.67	"	254	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
Oct.	17	1,145.83	1024	256	
Nov.	27	510.00	1091	58	
		5,000.00	2176-7	286	
		127.00	"	171	
Dec.	7	352.90	1166	158	
		247.87	"	186	
		243.33	"	133	
		333.33	"	293	
	13	500.00	1255	63	
		666.67	1256	124	
		273.33	1257	144	
		1,833.33	1258	183	
		160.86	1259	218	
		1,304.17	1260	220	
		1,020.83	1261	276	
	26	13,000.00	1421	17	
		541.67	1422	19	
		3,000.00	1423	41	
		5,950.00	1424	125	
		1,905.00	1425	127	
		2,500.00	1426	131	
		2,166.67	1427	209	
		7,500.00	1428	211	
1900					
April	9	2,500.00	1589	129	
Sept.	5	93.33	2606	4	First Natl. Bank of N. Y. Bearer
		2,470.00	1757	73	
		220.83	1758	154	
(page 78)					
Sept.	5	458.33	1759	155	Bearer
		426.00	1760	189	
		257.67	1761	190	
		612.50	1762	192	
		913.33	1763	195	
		443.34	1764	196	
		2,725.00	1765	199	
		600.00	1766	272	
Nov.	17	833.33	1809	302	
		2,000.00	1810	96	
		204.17	1811	281	
1901					
Jan.	25	816.67	1958	147	
Sept.	13	900.00	2131	242	
		100.00	2132	250	
		333.33	2133	249	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1902					
July	31	9,750.00	2187	185	
Aug.	25	5,000.00	2287	97	
		5,000.00	2288	172	
		5,000.00	2289	244	
		666.67	2290	219	
		333.33	2291	56	
		641.67	2292	239	
		58.33	2293	134	
		17.73	2294	174	
		41.67	2295	175	
		44.33	2296	157	
		166.67	2297	162	
		38.00	2298	120	
		1,333.33	2299	231	
		2,333.33	2300	90	
		3,166.67	2301	198	
		5,000.00	2302	113	
		3,666.67	2303	103	
		5,000.00	2304	275	
Sept.	23	183.33	2493	93	
		833.34	2492	300	
		333.33	2490	151	
		666.67	2490	128	
		1,000.00	2490	89	
	24	205.00	2488	280	
		1,333.33	2487	299	
		2,000.00	2489	156	
		1,666.67	2489	273	Bearer
		50.00	2493	34	
		100.00	2488	202	
		555.83	2491	238	
		666.67	2488	188	
		3,666.67	2491	246	
		333.33	2491	35	
		7,333.33	2490	291	
		404.17	2491	257	
		635.00	2493	9	
		3,333.34	2493	287	
(page 79)		150.00	2492	312	
1900					
Sept.	24	50.00	2493	138	Bearer
		1,543.33	2493	313	
		500.00	2492	308	
		200.00	2493	77	
		40.00	2491	258	
		833.33	2491	303	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1900					
Sept.	24	\$ 4,166.67	2491	15	
		5,193.33	2488	13	
		666.67	2490	32	
		100.00	2493	33	
		7,333.33	2486	101	
		6,166.67	2487	182	
		166.67	2486	187	
		106.68	2488	193	
		8.00	2488	230	
		23.14	2488	270	
		350.00	2492	310	
		500.00	2492	66	
		241.66	2493	67	
		160.86	2493	68	
		7,666.66	2493	266	
		2,333.33	2493	289	
1902					
Oct.	10	86.67	2534	260	
		666.67	2535	301	
		1,333.34	2536	285	
		200.00	“	307	
		5,653.33	2537	11	
		312.50	“	12	
		3,500.00	“	14	
		333.33	“	20	
		12.50	“	21	
		30.00	“	24	
		500.00	“	25	
		6,000.00	2537	54	Bearer
		9,000.00	“	57	
		333.33	“	59	
		1,000.00	“	60	
		3,666.66	“	62	
		500.00	“	74	
		4,000.00	“	75	
		87.50	“	81	
		20.00	“	217	
	11	1,500.00	2538	255	
Dec.	8	110.00	2584	71	
		2,666.67	2584	100	
		1,000.00	2583	102	
		333.33	2584	104	
		333.33	“	141	
		270.00	“	181	
		166.67	“	225	
		1,040.00	“	265	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1902					
Dec.	8	1,166.66	2584	210	Bearer
		1,000.00	"	132	
		45.00	"	216	
(page	80)	2,321.00	"	148	
		145.00	"	320	
		85.00	"	203	
		165.73	"	194	
		156.66	"	80	
1898					
Sept.	19	443.33	193	271	By mistake originally placed under 1871. See p. 4, Ledger 1.
1902					
Dec.	29	420.00	2603	259	Bearer
		130.00	2604	268	
(NOW HELD) "WEST VIRGINIA DEBT COMMISSION," JOHN B. MOON, CHAIRMAN.					
1905					
Dec.	22	13,000.00	3045	207	Bearer
	26	750.00	3062	136	
		9,500.00	3063	105	
1906					
Jan.	29	500.00	3084	22	
		3,333.34	"	23	
June	22	8,660.83	3165	106	
1907					
Feb.	4	\$ 225.00	3255	72	Bearer
		225.00	3256	79	
		166.67	3257	121	
July	18	3,833.33	3282	40	
1908					
Mar.	24	4,333.33	3348	116	
May	23	63.50	3374	212	
		121.67	"	153	
1909					
Aug.	4	1,166.67	3450	36	
		528.33	"	37	
1911					
Mar.	21	150.00	3595	200	
		1,000.00	"	91	
April	14	1,000.00	3655	26	
		3,500.00	3656	169	

DEPOSITS OF VIRGINIA DEFERRED CTFS. UNDER
(page 81) ACT OF 1892

(Principal Only.)

RECEIVED.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Aug.	22	1,000.00	4	65	No
	25	680.00	39	102	No
Sept.	3	1,333.33	168	55	No
	13	6.66	205	118	No
Oct.	4	6.67	352	103	No
		200.00	353	105	No
		40.00	354	106	No
		220.00	355	89	No
	5	333.33	385	120	No
	11	12,356.67	412	52	No
	31	1,166.66	649	29	No
		565.00	495	21	No
		39,120.83	496	35	No
Nov.	1	41.66	497	19	No
		1,500.00	498	28	No
		2,166.67	608	13	No
		1,333.33	500	5	No
		1,500.00	550	17	No
		187.50	552	43	No
		2,787.50	552	36	No
		1,000.00	687	26	No
		695.83	688	24	No
		500.00	“	25	No
		666.66	689	23	No
		75,830.83	554	38	No
		2,487.50	555	20	No
		11,866.66	691	42	No
		11,866.66	692	32	No
		3,265.00	701	41	No
		2,166.66	711	30	No
		666.66	557	6	No
		333.33	“	7	No
		333.33	“	14	No
		2,250.00	558	10	No
		1,366.66	715	27	No
		1,666.66	559	47	No
	3	320.83	632	90	No
		4,666.66	“	9	No
		666.66	560	8	No
	21	1,666.66	660	70	No. Int. from July 1-1891.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME	
1898						
Dec.	9	1,141.66	718	11	No	do
	12	2,720.00	731	72	No	do
		187.50	“	76	No	do
		166.67	“	85	No	do
		500.00	“	80	No	do
		1,875.00	“	15	No	do
		333.33	“	59	No	do
	27	333.33	783	113	No	do
(page 82)						
1899						
Oct.	20	453.33	1025	58	Bearer	
	25	166.67	1029	75		
Dec.	6	1,333.33	1117	69		
	19	333.33	1275	16		
1900						
June	13	333.33	1650	123		
	14	333.33	1655	57		
1901						
Jan.	14	333.33	1953	124		
Feb.	6	166.66	1977	71		
	21	1,000.08	1985	121		
Mar.	25	333.33	2026	54		
April	22	9,973.33	2062	31		
Aug.	30	1,000.00	2117	125		
Sept.	13	166.66	2127	37		
		3,641.66	2128	39		
1902						
Aug.	6	1,000.00	2194	60		
Sept.	24	3,333.33	2451	18		
		666.66	2452	46		
	25	3,333.33	2366	61		
Oct.	13	11,841.65	2548	40		
Nov.	19	195.00	2577	3		
1898						
Aug.	25	26.66	10	114	Bearer. Entered by mistake under '82 Int. Scrip on Ledger 1, p. 55.	
1902						
Aug.	25	4,500.00	2276	81	Bearer. Entered by mistake under '82 Prin.; on p. 29.	
1899						
Dec.	7	3,333.33	2726	112	Bearer. Placed by mistake under 1882 Prin.; see p. 27	
1903						
Jan.	29	7,333.33	2645	33	Bearer	
Mar.	5	3,333.33	2681	34		

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
May 6	333.34	2713	100	
18	120.00	2719	115	
1904				
Mar. 25	333.33	2759	4	
July 8	2,487.50	2771	44	

(CERTS. NOW HELD) "WEST VIRGINIA DEBT COMMISSION, J. B. MOON,
CHAIRMAN.

1906						
July 10	120.00	3176	126	Bearer		
Dec. 20	166.67	3247	86			
1907						
Feb. 4	1,333.34	3253	67			
May 29	453.33	3278	68			
1908						
May 23	100.00	3373	98			
Oct. 12	50.00	3396	128			
1910						
May 20	1,000.00	3533	122			
Oct. 1	110.00	3543	129			
Feb. 18-11	266.67	3565	130			
Mar. 21	3,000.00	3596	53			
(page 84)						
1911						
April 1	3,333.32	3616	{	82	\$1,166.66	Bearer
				45	166.67	
				22	1,666.66	
				87	333.33	

DEPOSITS OF VIRGINIA DEFERRED CTFS. UNDER ACT 1879.
(page 84)

Dollar Interest Scrip

RECEIVED.

1898					
Oct. 4	\$	41.67	357	1531	No
		20.00	"	1413	"
		10.00	"	1412	"
		600.00	"	1537	"
		66.66	"	1546	"
15		30.00	432	1416	"
31		25.00	566	1401	"
		41.66	567	1475	"
Nov. 1		158.34	568	1250	"
		158.34	"	1253	"

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
	29.17	"	1433	"
	29.17	"	1501	"
	3,000.00	569	1540	"
	2,625.00	"	1534	"
	10.00	570	1256	"
	10.00	"	1257	"
	80.00	"	1533	"
	1,500.00	"	1538	"
	35.00	695	1444	"
	20.84	714	1476	"
	270.83	"	1448	"
	270.83	"	1447	"
	62.50	"	1446	"
	1,710.00	627	1404	"
	575.00	"	1511	"
	758.35	"	1527	"
	1,350.00	"	1508	"
	1,725.00	"	1509	"
5	54.16	572	1431	"
	54.17	"	1432	"
	15.00	"	1272	"
	10.00	"	1282	"
	10.00	"	1289	"
	10.00	"	1284	"
	5.00	"	1293	"
	5.00	"	1294	"
	5.00	"	1296	"
	30.00	"	1437	
12	75.00	728	1452	Bearer
	5.00	"	1300	
	120.00	"	1385	
1899				
Mar.	29	116.67	886	1270 Bearer
		116.67	866	1269 Bearer
		230.00	"	1267 "
		158.33	"	1248 "
		237.50	"	1436 "
		279.16	"	1435 "
		230.00	"	1260 "
		141.67	"	1549 "
(page 85)				
May	19	1,555.00	986	1469 Bearer
		200.00	"	1400
		70.00	"	1402
		70.00	"	1403
		360.00	"	1535

DATE		AMOUNT	Our Ctf.		REGISTERED IN NAME
			Number	NUMBERS	
1899					
May	19	25.00	986	1464	
		50.00	"	1528	
		50.00	"	1375	
		50.00	"	1382	
		5.00	"	1370	
		10.00	"	1292	
		10.00	"	1290	
		50.00	"	1378	
		50.00	"	1379	
		50.00	"	1376	
		4.17	"	1374	
		4.17	"	1373	
		8.33	"	1470	
		4.16	"	1372	
		16.68	"	1465	
		12.50	"	1352	
		12.50	"	1353	
		12.50	"	1354	
		8.33	"	1355	
		8.33	"	1356	
		12.50	"	1257	
		12.50	"	1358	
		12.50	"	1359	
		8.34	"	1360	
		116.66	"	1515	
		158.33	"	1252	
		300.00	"	1555	
		1,354.16	"	1510	
		1,000.00	"	1479	
Dec.	19	270.83	1263	1280	
		270.83	1265	1279	
		270.84	1266	1278	
		270.83	1267	1277	
		270.84	1268	1276	
		270.83	1269	1275	
		270.84	1270	1274	
		270.83	1271	1273	
		270.83	1272	1281	
1900					
Jan.	30	91.67	1542	1484	
		125.00	"	1488	
Nov.	17	158.33	1807	1246	
		158.33	1808	1245	
1901					
Sept.	13	133.33	2129	1513	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
Sept. 24	300.00	2130	1490	
	100.00	2371	1525	
	233.33	"	1530	
	75.00	2372	1547	
	75.00	"	1542	
	50.00	"	1529	
	10.00	"	1391	
(page 86)				
Oct. 10	360.00	2544	1536	Bearer
	250.00	2545	1524	
	50.00	2546	1271	
	10.00	"	1289	
	5.00	"	1298	
	5.00	"	1299	
	41.66	"	1301	
	41.66	"	1302	
	41.67	"	1303	
	41.67	"	1304	
	41.67	"	1305	
	41.67	"	1306	
	258.33	"	1307	
	258.33	"	1308	
	358.33	"	1309	
	258.33	"	1310	
	258.33	"	1311	
	258.33	"	1312	
	258.34	"	1313	
	258.34	"	1314	
	258.34	"	1315	
	80.00	"	1333	
	20.83	"	1334	
	20.83	"	1335	
	20.84	"	1336	
	25.00	"	1337	
	25.00	2546	1338	Bearer
	25.00	"	1339	
	20.83	"	1340	
	20.83	"	1341	
	20.84	"	1342	
	137.50	"	1361	
	137.50	"	1362	
	137.50	"	1363	
	137.50	"	1364	
	137.50	"	1365	
	137.50	"	1366	
	137.50	"	1367	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1902					
Oct.	10	\$ 137.50	2546	1368	
		137.50	“	1369	
		30.00	“	1390	
		10.00	“	1396	
		125.00	“	1395	
		100.00	“	1483	
		108.33	“	1516	
		87.50	“	1517	
		154.16	“	1518	
		154.17	“	1519	
		25.01	“	1522	
		4.16	“	1523	
		387.50	“	1556	
	11	437.50	2547	1500	
		304.16	“	1502	
Dec.	29	450.00	2602	1520	

(page 87) (Certs. Now Held.) "WEST VIRGINIA DEBT COMMISSION."

JOHN B. MOON, CHAIRMAN.

1906					
Jan.	29	10.00	3086	1287	Bearer
		10.00	"	1288	
		50.00	"	1377	
		50.00	"	1380	
		50.00	"	1381	
		70.00	"	1384	
		4,350.00	"	1406	
		1,316.66	"	1463	
		140.00	"	1507	
		100.00	"	1514	
1907					
Feb.	4	145.83	3254	1392	
Mar.	24	340.00	3349	1407	
		340.00	"	1408	
		10.00	"	1386	
		630.00	3349	1389	
		1,350.00	"	1468	
		510.00	"	1409	
1908					
May	23	15.00	3370	1477	
		5.00	"	1440	
		10.00	"	1438	
		10.00	"	1411	
		20.00	"	1414	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1911				
Mar. 21	330.00	3597	1466	
April 6	50.00	3619	1482	
	10.00	"	1286	

(page 88) DEPOSITS OF VIRGINIA DEFERRED CTFS. ISSUED
UNDER ACT 1892.

Dollar Interest Scrip

1898		RECEIVED.			
Aug.	22	1,173.33	5	133	No
	24	43.65	9	203	No
	25	954.60	38	181	No
Sept.	3	90.00	2381	7	No
		160.00	"	8	No
		2,014.12	169	121	No
	13	88.07	204	207	No
Oct.	4	538.33	359	192	No
		294.00	"	186	"
		643.33	"	193	"
		433.33	"	195	"
		9.80	"	182	"
		198.34	"	194	"
		58.80	"	187	"
		475.00	"	4	"
	5	482.48	384	209	"
	11	17,592.03	413	117	"
	31	1,546.86	578	82	"
		105.00	"	34	"
		50.85	579	26	"
		481.07	"	73	"
		3,520.87	647	40	"
		33,466.40	"	93	"
Nov.	1	31.57	581	84	"
		1,010.19	582	70	"
		3.74	583	24	"
		47.35	"	71	"
		63.13	584	102	"
		135.00	585	33	No
		1,315.36	"	80	"
		195.00	586	18	"
		1,830.30	"	64	"
		120.00	587	10	"
		1,515.30	"	52	"
		135.00	588	22	"
		1,262.74	"	68	"

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	1	\$ 16.87	648	48	"
		193.67	"	100	"
		2,391.00	590	92	"
		250.87	"	41	"
		90.00	684	31	"
		844.73	"	78	"
		62.62	685	29	"
		45.00	"	30	"
		608.96	"	76	"
		422.37	"	77	"
		60.00	686	28	"
		563.15	"	75	"
		1,339.91	592	58	"
(page 89)		64,632.50	593	91	"
		6,824.77	"	43	"
		223.87	594	25	"
		2,056.72	"	72	"
		1,067.99	690	47	"
		10,113.89	"	99	"
		1,067.99	693	37	"
		10,113.93	"	87	"
		15.78	694	86	"
		2,783.29	702	98	"
		293.85	"	46	"
		2,262.42	708	83	"
		194.99	709	35	"
		12,002.97	710	85	"
		441.06	596	65	"
		441.96	"	54	"
		883.92	"	53	"
		30.00	"	19	"
		29.99	"	12	"
		60.00	"	11	"
		202.50	597	15	"
		1,915.27	"	61	"
		102.30	598	81	"
		1,222.79	599	60	"
		122.99	716	32	"
		1,570.52	"	79	"
Nov.	1	150.00	600	109	No
		1,407.90	"	111	"
	2	545.83	601	167	"
		5,303.54	"	57	"
		420.00	"	14	"
	3	59.99	602	13	"
		883.92	"	56	"

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
		66.66	603	210	"
	21	1,839.51	661	140	"
Dec.	9	102.75	719	16	"
		1,016.54	719	62	"
		233.84	720	106	"
	12	3,198.53	733	142	"
		45.00	"	152	"
		40.45	"	95	"
		1,547.37	"	66	"
		168.75	"	20	"
		3.33	"	3	"
		187.50	"	147	"
		60.00	"	151	"
		305.00	"	161	"
		482.25	"	153	"
		514.05	"	127	"
	27	650.85	784	201	"
1899					
Jan.	14	50.00	803	134	"
	31	42.09	815	104	"
(page	90)				
Oct.	20	679.74	1026	126	Bearer
	25	305.00	1030	146	
Dec.	6	1,972.03	1116	138	
	19	484.05	1273	67	
		30.00	1274	21	
	20	299.99	1276	23	
		4,051.31	"	69	
		680.00	"	164	
1900					
June	13	400.00	1649	214	
	14	610.32	1653	124	
		30.00	1654	123	
1901					
Feb.	6	320.16	1978	122	
	21	1,479.02	1986	215	
Mar.	6	3,246.41	2017	199	
	25	528.08	2025	120	
April	1	35.08	2034	202	
	22	897.60	2063	36	
May	17	\$ 293.33	2085	219	Bearer
Sept.	13	327.75	2123	44	
		3,104.12	2124	94	
		14.99	2125	42	
		140.80	2126	90	
Oct.	21	31.67	2136	221	

		Our Ctf.			
DATE		AMOUNT	Number	NUMBERS	REGISTERED IN NAME
1902					
Feb.	4	373.40	2150	166	
May	6	1,770.00	2156	220.	
Aug.	6	973.92	2193	130	
	25	405.00	2277	155	
		6,254.10	“	156	
Sept.	24	931.27	2356	110	
		60.00	“	108	
		13.33	“	145	
		73.66	“	101	
	25	6,255.96	2357.	129	
Oct.	13	1,065.75	2549	45	
		10,101.30	“	96	
1903					
Jan.	26	298.35	2643	6	
	29	6,555.29	2646	88	
	29	660.00	2647	58	
Mar.	5	300.00	2679	39	
		6,103.26	2680	89	
May	6	610.00	2714	179	
	18	10.80	2718	204	
Sept.	18	330.00	2742	224	
1904					
Mar.	25	105.22	2758	51	
		30.00	“	9	
1904					
July	8	223.87	2770	49	
		2,120.00	“	103	
(page 91) “WEST VIRGINIA DEBT COMMISSION.” J. B. MOON, CHAIRMAN.					
1905					
Jan.	12	66.67	2881	223	Bearer
1906					
June	22	442.77	3163	139	
		147.32	“	118	
		43.85	“	125	
		195.00	“	227	
Dec.	20	13.33	3246	163	
		251.67	“	162	
1907					
Feb.	4	\$ 1,495.00	3252	136	
May	29	664.02	3279	137	
Dec.	23	53.33	3313	229	
1908					
May	23	135.55	3368	116	
		149.00	“	177	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1908					
Oct.	12	140.17	3395	233	
1910					
May	20	1,261.55	3534	211	
Oct.	1	167.10	3544	235	
1911					
Feb.	18	208.00	3562	236	
April	1	3,702.78	3617	50	\$ 15.00
				158	1,404.80
				157	104.99
				74	1,358.50
				97	278.61
				105	227.98
				107	192.91
				27	119.99

(page 92) DEPOSITS OF VIRGINIA DEFERRED CTFS. ISSUED
UNDER ACT 1882.

(Principal.)

1898		RECEIVED.			
Aug.	25	\$ 1,000.00	11	673	No
		1,000.00	12	672	do
		1,000.00	13	671	do
		1,000.00	14	670	do
		1,000.00	15	669	do
		1,000.00	16	668	do
		1,000.00	17	667	do
		1,000.00	18	666	do
		1,000.00	19	665	do
		1,000.00	20	664	do
Sept.	3	3,000.00	2378	587	do
		333.33	2379	589	do
	14	1,000.00	212	367	Bearer
		300.00	213	368	do
		33.34	214	369	do
	16	500.00	2809	49	do
		1,000.00	2808	342	do
		1,000.00	"	343	do
		1,000.00	"	344	do
		1,000.00	"	345	do
		666.67	2809	366	do
		1,233.33	2809	384	Bearer
		166.67	"	422	do
		1,000.00	2808	434	do
		1,000.00	"	435	do

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Sept. 16	\$ 1,000.00	2808	436	do
	1,000.00	"	438	do
	1,000.00	"	439	do
	1,000.00	"	440	do
	1,000.00	"	441	do
	1,000.00	"	442	do
	1,000.00	"	457	do
	1,000.00	"	652	do
	1,333.33	2809	619	do
	1,333.33	"	624	do
	2,833.33	"	650	do
	1,000.00	2808	653	do
	1,000.00	"	654	do
	1,000.00	"	655	do
	1,000.00	"	656	do
	1,000.00	"	657	do
	1,000.00	"	658	do
	1,000.00	2809	659	do
	1,333.33	"	660	do
	4,500.00	"	11	do
21	1,833.33	310	28	do
	233.33	311	36	do (Ctf. not endorsed)
29	1,500.00	336	732	do
	500.00	337	939	do
Oct. 4	40.00	347	993	do
(page 93)	1,666.67	348	24	do
	500.00	349	784	do
	58.33	350	785	do
	1,000.00	411	783	do
	1,000.00	"	263	do
	5,000.00	"	113	do
	5,000.00	"	112	do
	16.67	"	115	do
	1,333.33	"	264	do
	1,333.33	"	710	do
	333.33	"	631	do
	1,666.67	"	638	do
	333.33	"	224	do
	333.33	"	183	do
	466.67	"	120	do
	206.67	"	220	do
	166.67	"	158	do
	333.33	"	455	do
	1,333.33	411	463	Bearer
	333.33	"	348	do
	333.33	"	542	do

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Oct.	4	\$ 500.00	411	55	do
		5,000.00	“	121	do
	14	70.67	421	867	do
		70.67	422	892	do
		1,000.00	464	160	do
	22	666.67	466	552	do
		1,000.00	“	551	do
		1,000.00	“	550	do
		1,000.00	“	549	do
		1,000.00	“	548	do
		1,000.00	“	547	do
		1,000.00	“	546	do
	31	166.67	488	992	do
		10,000.00	650	713	do
		10,000.00	“	714	do
		1,000.00	490	237	do
		1,000.00	“	238	do
		1,000.00	“	239	do
		3,750.00	491	26	do
		2,872.50	“	45	do
Nov.	1	1,000.00	492	791	do
		1,000.00	493	44	do
		3,689.17	493	110	do
		333.33	“	152	do
		66.67	612	942	
		100.00	“	941	
		453.33	“	458	
		1,000.00	“	906	
		1,000.00	“	914	
		1,000.00	“	915	
		1,000.00	“	916	
		1,000.00	“	917	
		1,000.00	“	918	
		1,000.00	“	919	
(page 94)					
		1,000.00	“	961	Bearer
		166.67	“	962	
		141.67	“	963	
		12.00	“	964	
		1,643.33	“	966	
		1,000.00	“	752	
	2	166.67	“	648	
		500.00	“	952	
		404.17	“	929	
		300.00	612	346	
		1,000.00	“	772	

DATE		AMOUNT	Our Ctf.		REGISTERED IN NAME
			Number	NUMBERS	
1898					
Nov.	2	\$ 75.00	612	924	
		100.00	"	923	
		1,000.00	"	796	
		74.17	"	792	
		1,000.00	"	875	
		100.00	"	921	
		86.67	"	800	
		1,000.00	"	794	
		33.33	"	347	
		1,633.33	"	760	
		333.33	"	927	
		333.33	"	943	
		1,000.00	"	909	
		1,511.73	613	708	
		5,000.00	"	176	
		833.33	"	178	
		333.33	"	996	
		1,405.33	"	991	
		500.00	"	951	
		300.00	"	954	
		1,000.00	"	911	
		1,000.00	"	910	
		1,000.00	"	908	
		100.00	"	922	
		5,950.00	"	707	
		666.66	"	25	
		100.00	"	781	
		100.00	"	798	
		100.00	"	779	
		100.00	"	780	
		193.33	"	709	
		200.00	"	832	
		66.67	"	843	
		500.00	614	845	
		30.00	"	853	
		1,000.00	"	856	
		1,000.00	"	857	
		333.33	"	858	
		66.67	"	865	
		533.33	"	358	
		1,000.00	"	447	
		1,000.00	"	468	
		1,000.00	"	470	
		100.00	"	508	
		1,000.00	"	526	

DATE	AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898				
Nov. 2	\$ 1,000.00	614	528	Bearer
(page 95)	1,000.00	"	529	
	2,000.00	"	12	
	500.00	"	252	
	33.33	"	782	
	1,000.00	"	795	
	66.67	"	799	
	33.33	"	815	
	700.00	"	820	
	33.33	"	823	
	1,000.00	"	824	
	200.00	"	825	
	100.00	"	834	
	133.33	"	836	
	33.33	615	840	
	166.67	"	846	
	666.67	"	5	
	333.33	"	777	
	1,000.00	"	889	
	500.00	"	933	
	1,000.00	"	934	
	1,000.00	"	935	
	500.00	"	936	
	1,000.00	"	937	
	1,000.00	"	938	
	33.34	"	151	
	1,000.00	"	411	
	1,000.00	"	416	
	1,000.00	"	415	
	2,000.00	"	881	
	1,000.00	"	404	
	1,000.00	"	406	
	1,000.00	"	405	
	1,000.00	"	407	
	1,000.00	"	408	
	1,000.00	"	410	
	1,000.00	"	409	
	1,000.00	"	412	
	1,000.00	"	413	
	1,000.00	"	414	
	1,000.00	"	417	
	1,000.00	"	418	
	1,000.00	"	419	
	1,000.00	"	423	
	1,000.00	"	427	
	1,000.00	"	428	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Nov. 2	\$ 1,000.00	615	844	
	50.00	615	770	
	16.67	"	771	
	66.67	"	775	
	1,000.00	"	956	
	1,000.00	"	882	
	1,000.00	"	692	
	1,000.00	"	473	
	1,000.00	"	525	
	1,000.00	"	527	
(page 96)	1,000.00	616	475	Bearer
	1,000.00	"	443	
	1,000.00	"	472	
	1,000.00	"	437	
	1,000.00	"	453	
	1,000.00	"	267	
	1,000.00	"	261	
	1,000.00	"	262	
	1,000.00	"	421	
	1,000.00	"	420	
	1,000.00	"	885	
	1,000.00	"	886	
	1,000.00	"	887	
	1,000.00	"	884	
	1,000.00	"	888	
	1,000.00	"	883	
	500.00	"	51	
	500.00	"	269	
	500.00	"	444	
	500.00	"	50	
	500.00	"	58	
	100.00	"	769	
	1,000.00	"	912	
	1,000.00	"	913	
	362.50	"	920	
	595.83	"	930	
	6.67	"	986	
	1,000.00	"	947	
	1,000.00	"	948	
	1,000.00	"	949	
	500.00	"	950	
	166.67	"	953	
	33.33	617	955	
	153.33	"	957	
	1,000.00	"	946	
	1,000.00	"	945	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Nov. 2	\$ 1,000.00	617	979	
	875.00	"	980	
	166.67	"	981	
	1,000.00	"	982	
	1,000.00	"	983	
	500.00	"	984	
	33.33	"	932	
	30.00	"	958	
	33.33	"	967	
	56.00	"	968	
	333.33	"	969	
	1,000.00	"	970	
	1,000.00	"	971	
	1,000.00	"	972	
	1,000.00	"	973	
	1,000.00	"	974	
	1,000.00	"	975	
	1,000.00	"	976	
(page 97)	1,000.00	"	977	Bearer
	166.67	"	978	
	1,000.00	"	561	
	1,000.00	"	562	
	1,000.00	"	563	
	1,000.00	"	564	
	500.00	"	773	
	100.00	"	774	
	70.00	"	748	
	333.33	"	715	
	500.00	"	718	
	333.33	"	723	
	700.00	"	711	
	500.00	"	926	
	300.00	"	822	
	8.34	"	821	
	5,000.00	"	880	
	5,000.00	"	879	
	20.83	"	804	
	300.00	"	814	
	400.00	"	803	
	500.00	618	797	
	620.00	"	877	
	1,000.67	"	868	
	166.67	"	651	
	333.33	"	693	
	783.33	"	702	
	36.00	"	893	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Nov. 2	\$ 166.67	618	620	
	62.50	"	826	
	100.00	"	835	
	300.00	618	839	
	1,000.00	"	870	
	1,000.00	"	871	
	1,000.00	"	872	
	1,000.00	"	876	
	1,000.00	"	878	
	133.33	"	591	
	163.33	"	544	
	541.67	"	531	
	66.67	"	509	
	766.67	619	523	
	333.33	"	530	
	207.08	"	498	
	375.00	"	501	
	8.33	"	505	
	233.33	"	477	
	14.33	"	478	
	166.67	"	480	
	500.00	"	476	
	26.67	"	462	
	166.67	"	272	
	166.67	"	298	
	333.33	"	357	
	358.33	"	376	
(page 98)	266.67	"	268	Bearer
	396.67	"	266	
	500.00	"	265	
	400.00	"	243	
	333.33	"	103	
	500.00	2662	69	Sam'l P. Watkins and others
	500.00	"	68	do
	88.67	2663	7	Miss Rose L. Donnelly
	84.10	2662	13	Sam'l P. Watkins and others
	500.00	"	67	do
	500.00	"	64	do
	500.00	"	65	do
	500.00	"	62	do
	500.00	"	61	do
	500.00	"	66	do
	500.00	"	57	do
	666.67	2664	429	D. M. M. Harrison
	66.67	2665	378	Felix Rolleiner
	66.67	2666	524	Dabney Morgan & Co.

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	2	\$ 1,333.33	625	150	Bearer
		66.67	“	275	“
		66.67	“	185	“
		133.33	“	184	“
		500.00	625	56	Bearer
		2,333.33	633	724	“
		356.25	“	742	“
		5,000.00	“	30	“
		5,000.00	“	177	“
		50.00	“	159	“
		5,166.67	“	27	“
		500.00	“	1013	“
		166.67	“	1014	“
		1,000.00	“	997	“
		1,000.00	“	998	“
		1,000.00	“	999	“
		1,000.00	“	1000	“
		1,000.00	“	1001	“
		1,000.00	“	1002	“
		1,000.00	“	1003	“
		1,000.00	“	1004	“
		1,000.00	“	1005	“
		1,000.00	“	1006	“
		1,000.00	“	1007	“
		1,000.00	“	1008	“
		1,000.00	“	1009	“
		1,000.00	“	1010	“
		1,000.00	“	1011	“
		1,000.00	“	1012	“
		1,491.67	3624	22	“
		1,666.67	3623	74	“
		10,666.67	3620	29	“
		2,333.33	3621	15	“
		620.84	3624	78	“
		620.83	“	77	“
		404.16	“	129	“
(page	99)	333.33	3624	182	Bearer
		333.33	3623	105	“
		300.00	3622	95	“
		166.67	3624	132	“
		116.66	“	99	“
		66.67	“	194	“
		66.67	“	191	“
		66.67	“	200	“
		45.83	“	85	“
		500.00	3622	94	“

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	2	\$ 100.00	3622	192	"
		100.00	"	193	"
		1,000.00	639	894	"
		1,000.00	"	896	"
		666.67	"	895	Francis H. Pierpont, etc.
		33.33	663	162	Bearer
		666.67	"	161	"
		1,000.00	721	209	"
		1,000.00	"	236	"
Dec.	12	1,666.67	991	19	" Int. from July 1-82
		1,000.01	"	380	"
		333.33	"	381	" Int. from July 1-82
		166.67	"	154	" "
		166.67	"	253	" "
		123.33	"	271	" "
		1,000.00	"	247	" "
		1,000.00	"	246	" "
		1,000.00	"	245	" "
		500.00	"	258	" "
		1,333.33	992	778	" Int. from Jan. 1-85
		1,000.00	726	829	" "
		550.00	"	830	" "
		166.67	"	831	" "
	27	666.67	780	802	" "
		1,000.00	"	801	" "
		100.00	781	674	" "
		500.00	"	157	" Int. from July 1-82
		500.00	"	219	" "
		500.00	"	54	" Int. from July 1-83
		1,000.00	"	276	" Int. from July 1-82
		1,000.00	"	288	" "
		1,000.00	"	286	" "
		1,000.00	"	285	" "
		1,000.00	"	284	" "
		1,000.00	"	283	" "
		1,000.00	"	279	" "
		1,000.00	"	282	" "
		1,000.00	"	278	" "
		1,000.00	"	280	" "
		1,000.00	"	277	" "
		1,000.00	"	281	" "
		1,000.00	"	691	" Int. from Jan. 1-85
		1,000.00	"	541	" Int. from July 1-84
		1,000.00	"	540	" "
		1,000.00	"	287	" Int. from July 1-82

		Our Ctf.		REGISTERED IN NAME
DATE	AMOUNT	Number	NUMBERS	
1899				
(page 100)	1,000.00	781	117	" Int. from July 1-82
	1,000.00	"	119	Bearer Int from July 1-82
	1,000.00	"	118	" "
	1,500.00	"	625	" Int. from Jan. 1-85
	5,000.00	"	116	" Int. from July 1-82
1899				
Jan. 21	333.33	806	38	Bearer Int. from July 1-82
Feb. 2	1,333.33	823	23	" "
	3,833.33	"	768	" Int. from Jan. 1-85
	5,000.00	"	767	" "
	5,000.00	824	766	" "
	1,000.00	"	360	" Int. from July 1-82
	1,000.00	"	361	" "
	1,000.00	"	362	" "
	1,000.00	"	363	" "
	1,000.00	"	364	" "
	1,000.00	825	365	" "
	1,000.00	"	385	" "
	1,000.00	"	386	" "
	1,000.00	"	387	" "
	1,000.00	"	388	" "
	1,000.00	"	389	" "
	1,000.00	"	390	" "
	1,000.00	"	391	" "
	1,000.00	"	392	" "
	1,000.00	"	393	" "
	1,000.00	826	394	" "
	1,000.00	"	395	" "
	1,000.00	"	396	" "
	1,000.00	"	397	" "
	1,000.00	"	398	" "
	1,000.00	"	399	" "
	1,000.00	"	400	" "
	1,000.00	"	401	" "
	1,000.00	"	402	" "
	1,000.00	"	403	" "
Mar. 14	1,000.00	868	632	" Int. from Jan. 1-85
	1,000.00	869	633	" "
	1,000.00	870	635	" "
	666.67	871	634	" "
April 28	1,000.00	955	373	" "
	1,000.00	956	370	" "
	1,000.00	957	371	" "
	1,000.00	958	372	" "
	1,000.00	959	374	" "
	333.33	960	122	" "

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
	666.66	961	375	"
Oct. 2	2,000.00	995	994	"
Dec. 7	1,666.67	2725	849	"
	16.00	"	847	"
	1,000.00	"	699	"
	1,000.00	"	506	"
	166.67	"	905	"
	333.33	2725	874	Bearer
	453.33	"	862	"
	66.67	"	873	"
(page 101)	1,666.67	"	965	"
	333.33	"	852	
	1,333.33	"	850	
	30.00	"	818	
	608.33	"	2	
	333.33	1168	747	
	333.33	"	764	
	66.67	"	816	
	288.33	"	817	
	847.33	"	629	
	886.67	"	3	
	1,766.66	"	4	
	353.34	"	377	
	100.00	"	274	
	1,250.00	"	621	
	1,666.67	"	630	
	60.00	"	763	
	60.00	"	761	
	133.33	"	753	
	466.67	"	745	
	38.33	"	725	
	666.67	1170	776	
	100.00	"	743	
	1,000.00	"	510	
	1,000.00	"	812	
	1,500.00	"	704	
	500.00	"	809	
	1,000.00	"	806	
	1,000.00	"	807	
	1,000.00	"	810	
	1,000.00	"	808	
	1,666.67	"	84	
	1,000.00	"	811	
	333.33	"	813	
	500.00	"	479	

DATE		AMOUNT	Our Ctf	NUMBERS	REGISTERED IN NAME
1900			Number		
Mar.	15	666.67	1547	1015	
April	4	1,666.66	1577	642	
	9	3,333.33	1590	48	
		1,000.00	“	73	
		1,000.00	“	86	
		1,000.00	“	87	
		1,000.00	“	88	
		1,000.00	“	89	
April	9	\$ 500.00	1590	106	
		1,000.00	“	123	
		1,000.00	“	124	
		1,000.00	“	125	
		1,000.00	“	126	
		1,000.00	“	127	
		500.00	“	128	
		1,000.00	“	137	
		1,000.00	“	144	
		1,000.00	“	164	
		333.33	“	171	
		1,000.00	“	173	
(page 102)		500.00	“	198	Bearer
		100.00	“	199	
		350.00	“	204	
		300.00	“	240	
		33.33	“	241	
	13	666.67	1631	202	
		1,000.00	“	211	
		1,000.00	“	212	
		1,000.00	“	213	
		1,000.00	“	214	
		1,000.00	“	215	
		1,000.00	“	216	
		1,000.00	“	217	
		500.00	“	218	
Aug.	29	333.33	1752	842	
Sept.	26	200.00	1774	751	
Nov.	10	1,000.00	1799	79	
		1,000.00	1800	80	
		1,000.00	1801	81	
		1,000.00	1802	82	
		500.00	1803	83	
1901					
April	29	2,000.00	2081	960	
1902					
Jan.	31	413.33	2140	988	
Feb.	11	166.67	2152	716	

DATE		Our Ctf.		REGISTERED IN NAME
1902		AMOUNT	Number NUMBERS	
Aug.	12	50.00	2214	539 Frances G. Hodgson
		1,666.67	2219	898 Bearer
		1,000.00	"	899
		1,000.00	"	900
		1,000.00	"	901
		1,000.00	"	902
		1,000.00	"	903
		333.33	"	904
Sept.	24	333.33	2362	749
		333.33	2362	626
		666.67	"	675
		333.33	"	676
		2,000.00	"	628
		666.67	"	866
		392.50	"	467
		833.33	"	495
		1,000.00	"	494
		1,000.00	"	493
		166.67	"	466
		500.00	"	465
		1,000.00	"	464
		166.67	"	170
		69.17	"	260
		200.00	"	259
		33.33	"	249
		300.00	"	248
		1,000.00	"	197
		1,000.00	"	232
		1,000.00	"	231
		1,000.00	"	230
(page 103)		1,000.00	"	229 Bearer
		1,000.00	"	228
		1,000.00	"	227
		1,000.00	"	226
		66.67	"	109
		66.67	"	76
		362.50	"	149
		200.00	"	16
		66.67	"	222
		449.33	"	175
		100.00	"	221
		1,033.33	"	172
		333.33	"	233
		666.67	"	433
		1,000.00	"	432
		33.34	"	356

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1902					
Sept.	24	\$ 300.00	2362	355	
		500.00	“	354	
		500.00	“	174	
		10,000.00	2453	786	
		10,000.00	2454	787	
		10,000.00	2455	788	
		5,000.00	2456	606	
		5,000.00	“	608	
		5,000.00	2457	609	
		5,000.00	“	610	
		5,000.00	2458	612	
		5,000.00	“	613	
		3,000.00	2459	146	
		2,000.00	“	145	
		1,000.00	2459	518	
		1,000.00	“	520	
		1,000.00	“	337	
		1,000.00	“	338	
		1,000.00	“	289	
		1,000.00	2460	290	
		1,000.00	“	481	
		1,000.00	“	592	
		1,000.00	“	593	
		1,000.00	“	594	
		1,000.00	“	595	
		1,000.00	“	596	
		1,000.00	“	597	
		1,000.00	“	598	
		1,000.00	“	599	
		1,000.00	2461	600	
		1,000.00	“	601	
		1,000.00	“	602	
		1,000.00	“	603	
		1,000.00	“	133	
		1,000.00	“	134	
		1,000.00	“	135	
		1,000.00	“	139	
		1,000.00	“	140	
		1,000.00	“	141	
		1,000.00	2462	142	
(page 104)		1,000.00	“	143	Bearer
		1,000.00	“	649	
		1,000.00	“	678	
		1,000.00	“	679	
		1,000.00	“	680	
		1,000.00	“	681	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
Sept. 24	\$ 1,000.00	2462	682	
	1,000.00	"	683	
	1,000.00	"	684	
	1,000.00	2463	685	
	1,000.00	"	686	
	1,000.00	"	687	
	1,000.00	"	688	
	1,000.00	"	689	
	1,000.00	"	790	
	4,833.33	2464	789	
	2,820.83	2465	705	
	2,666.67	2466	805	
	1,587.50	2467	690	
	1,520.83	2468	731	
	833.33	2469	819	
	833.33	2470	841	
	666.67	2463	697	
	500.00	"	897	
	500.00	"	722	
	333.33	"	759	
	166.67	"	677	
	166.67	2470	827	
	5,183.33	2471	614	
	833.33	2472	521	
	1,029.17	2473	604	
	500.00	2463	517	
	437.50	2474	516	
	300.00	2475	291	
	33.33	2476	273	
	33.33	2477	292	
	666.67	2463	555	
	333.33	2463	618	
	333.33	"	136	
	333.33	2478	543	
	333.33	2479	617	
25	66.66	2428	696	
Oct. 10	500.00	2538	147	
	500.00	"	148	
	1,000.00	"	225	
	1,000.00	"	351	
	1,000.00	"	352	
	1,000.00	"	353	
	2,000.00	2540	14	
	1,166.67	"	72	
	1,000.00	"	195	
	1,000.00	"	196	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
Oct. 10	\$ 166.67	2540	210	
	100.00	2541	339	
	25.00	"	340	
	1,000.00	"	482	
	1,000.00	"	483	
(page 105)	1,000.00	"	484	Bearer
	1,000.00	"	485	
	1,000.00	"	486	
	166.67	"	487	
	130.00	"	519	
	100.00	"	586	
	1,000.00	"	588	
Oct. 13	740.00	2514	746	George Ashton
Dec. 8	333.33	2579	793	Bearer
Sept. 24	5,000.00	2446	1027	" (Originally entered as 1892. See Ledger 2, P. 35).
	5,000.00	2447	1025	do do
	5,000.00	2448	1026	do do
	433.33	2449	1028	do do
	333.33	2450	1024	do do
Dec. 18	333.33	2586	20	Bearer
1903				
July 25	333.33	2733	622	
1904				
Nov. 4	166.67	2790	695	
Dec. 20	1,000.00	2794	523	Susanna Forgey
	1,000.00	2794	533	"
1905				
Jan. 5	333.33	2832	448	Bearer
	500.00	"	60	Sam'l P. Watkins and other
	2,410.34	"	297	Bearer
	1,000.00	2829	474	"
	1,000.00	"	251	Wm. T. & James Scott, Committee, etc.
	1,000.00	"	445	Bearer
	1,000.00	"	451	
	1,000.00	"	471	
	1,000.00	2830	452	
	1,000.00	"	424	
	1,000.00	"	449	
	1,000.00	"	426	
	1,000.00	"	469	
	1,000.00	2831	446	
	1,000.00	"	450	
	1,000.00	"	425	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1905					
		433.33	2832	717	Treas. of Commonwealth in Tr. for Bk. of Richmond
		33.33	"	987	Bearer
		333.33	"	890	
		333.33	"	928	
		333.33	"	854	
		2,000.00	2831	855	
	12	693.33	2879	627	M. M. Harrison and Edw. Dromgoolo, Guardians
	24	1,000.00	2907	859	Bearer
		666.67	2908	860	
Feb.	27	1,000.00	2934	90	
		1,000.00	2935	91	
		1,000.00	2936	92	
		1,000.00	2938	93	
(page 106)		1,000.00	2939	96	Bearer
		1,000.00	2940	168	
		1,000.00	2941	169	
June	30	1,000.00	"	556	
		1,000.00	"	557	
		1,000.00	"	558	
		833.33	3005	559	
Dec.	1	1,333.33	3005	130	
	13	666.67	3035	755	
	19	1,000.00	3040	574	
		3,333.33	3041	762	
1906					
Jan.	29	1,000.00	3083	186	
		1,000.00	"	187	
		1,000.00	"	188	
		1,000.00	"	189	
		1,000.00	"	190	
Feb.	5	5,000.00	3092	111	
		1,000.00	3093	114	
Aug.	23	120.00	3207	1023	Chas. F. Chase & Co.
	31	1,000.00	3210	179	Bearer
		1,000.00	3211	180	
		1,000.00	3212	181	
1907					
May	2	1,000.00	3273	203	
		1,000.00	3274	208	
		1,000.00	3275	207	
		1,000.00	3276	206	
		1,000.00	3277	205	
Oct.	3	214.65	3291	1017	
	14	333.33	3296	35	

DATE		AMOUNT	Our Ctf.		REGISTERED IN NAME
			Number	NUMBERS	
1907					
		2,833.33	3295	33	
		66.67	3294	39	
		340.33	3293	46	
		660.00	3292	75	
	16	6.67	3297	861	
1908					
May	7	2,482.17	3362	750	
	23	1,666.67	3372	661	
July	17	700.00	3382	379	
Nov.	20	500.00	3400	383	
1909					
Feb.	15	303.33	3415	341	
		833.33	3418	646	
Mar.	23	333.33	3436	959	
June	18	1,333.33	3444	47	
1910					
Feb.	28	40.33	3512	931	
Mar.	22	3,333.33	3527	250	
		1,200.00	"	989	
June	27	1,666.67	3537	641	
Aug.	4	5,000.00	3539	611	
		5,000.00	3540	607	
Oct.	6	166.67	3546	698	
1911					
Feb.	18	266.67	3564	615	Walter R. Hill, Exr. and Tr. of Hetty A. Hill, deed.
(page 107)		3,333.33	3563	1021	The Trustees of the Genl. Assembly of the Pres. Ch. in the U. S.
Mar.	22	480.00	3601	765	Bearer
	23	1,666.67	3604	461	
	24	66.67	3608	848	
April	10	333.33	3640	37	C. T. Mason

(page 108) DEPOSITS OF VIRGINIA DEFERRED CTFS. ISSUED
UNDER ACT 1882.

Dollar Interest Scrip.

RECEIVED.

1898				
Aug.	25	1,000.00	21	554
		1,000.00	22	555
		1,000.00	23	556
		1,000.00	24	557
		1,000.00	25	558
		1,000.00	26	559

		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
		1,000.00	27	560	
		1,000.00	28	561	
		1,000.00	29	562	
		1,000.00	30	563	
		700.00	31	565	
Sept.	3	1,080.00	2380	467	
		1,020.00	2380	470	
	12	226.67	142	404	
	14	500.00	220	281	
		200.00	221	282	
		60.00	222	283	
	17	1,000.00	2967	319	
		1,000.00	"	320	
		1,000.00	"	321	
		1,000.00	"	332	
		1,000.00	2967	333	
		1,000.00	2968	334	
		1,000.00	"	360	
		500.00	2969	373	
		1,000.00	2968	408	
		1,000.00	"	118	
		1,000.00	"	119	
		1,000.00	2969	120	
		500.00	"	121	
		100.00	2970	179	
		500.00	2969	369	
		1,000.00	"	610	
		1,000.00	"	609	
		1,800.00	2970	592	
		800.00	"	383	
		500.00	2969	205	
		1,000.00	2970	204	
		1,000.00	"	203	
		100.00	2970	187	
		100.00	"	186	
		100.00	"	616	
		225.00	2811	615	
		2.33	"	613	
		621.50	"	611	
		33.33	"	590	
		186.67	"	573	
		150.00	"	572	
(page 109)		201.17	2811	569	
		162.67	"	568	
		75.00	"	541	
		860.45	"	513	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Sept. 17	\$ 126.67	2811	510	
	237.50	"	500	
	129.33	"	471	
	20.00	2971	465	
	58.33	2811	463	
	190.00	"	438	
	33.33	"	426	
	171.50	"	425	
	133.34	"	412	
	339.80	"	411	
	150.00	"	402	
	800.00	"	393	
	45.00	"	392	
	7.75	"	390	
	75.00	"	371	
	13.63	"	368	
	358.13	2811	352	
	17.00	"	295	
	160.00	2971	247	
	85.00	2811	229	
	76.67	"	207	
	28.33	"	188	
	60.00	"	19	
	132.00	"	146	
	98.21	"	141	
	1,600.00	2971	140	
	496.00	2811	139	
	399.37	"	122	
	170.00	"	612	
	840.00	2971	586	
	420.00	"	567	
	1,997.50	2811	537	
	170.00	"	504	
	10.00	"	418	
	367.33	"	367	
	880.00	2971	353	
	1,000.00	2974	342	
	413.33	2811	340	
	566.67	"	324	
	130.00	"	322	
	266.67	"	318	
	1,000.00	2972	317	
	1,000.00	"	316	
	1,000.00	"	315	
	1,000.00	"	313	
	1,000.00	"	312	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Sept.	17	\$ 1,000.00	2973	309	
		533.33	2811	302	
		394.75	“	289	
		500.00	2973	279	
		500.00	“	278	
		500.00	“	277	
(page 110)		500.00	2973	276	
		500.00	“	275	
		500.00	“	266	
		500.00	“	268	
		500.00	“	267	
		500.00	2974	270	
		500.00	“	271	
		500.00	“	272	
		500.00	“	273	
		500.00	2971	274	
		210.00	2811	262	
		1,672.22	2811	246	
		128.00	“	224	
		141.80	“	223	
		500.00	2971	221	
		1,000.00	2974	219	
		1,000.00	“	218	
		192.00	2811	209	
		80.00	2971	132	
		8.33	2811	68	
		848.00	“	39	
	21	419.27	308	43	Bearer
		935.00	309	32	
	29	2,160.00	334	681	
		390.00	335	953	
Oct.	4	51.88	358	774	
		500.00	“	769	
		1,150.00	“	27	
		100.00	“	772	
		100.00	“	770	
		100.00	“	771	
		138.32	“	1048	
		1,000.00	“	1045	
		1,000.00	“	1047	
		1,000.00	“	1046	
		100.00	“	773	
		45.60	“	1015	
		70.99	429	902	
		70.99	430	860	
		660.00	465	130	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
22	200.00	467	432	
	1,000.00	"	431	
	1,000.00	"	427	
	1,000.00	"	428	Bearer
	1,000.00	"	429	
	1,000.00	"	430	
31	5,600.00	573	645	
	10,000.00	"	644	
	2,079.17	574	29	
	1,204.87	"	48	
Nov. 1	1,440.00	575	778	
	205.00	576	1038	
	2,029.04	577	97	
	500.00	"	58	
	1,000.00	"	56	
	33.33	"	53	
	50.00	"	46	
(page 111)	830.00	635	65	Bearer
	600.00	635	125	
	62.00	"	407	
	20.00	"	462	
	1,065.00	"	498	
	20.00	"	505	
	130.00	"	508	
	166.67	"	534	
	169.47	"	971	
	35.00	"	969	
	160.00	"	968	
	175.00	"	967	
	300.00	"	966	
	500.00	"	965	
	500.00	"	964	
	1,000.00	"	963	
	1,000.00	"	962	
	1,000.00	"	961	
	1,000.00	"	960	
	26.67	"	974	
	48.00	"	987	
	63.83	"	988	
	310.00	"	990	
	773.89	"	991	
2	1,000.00	"	993	Bearer
	1,000.00	"	994	
	1,000.00	"	995	
	50.00	"	992	
	1,000.00	"	996	

DATE	AMOUNT	Number Our Ctf.	NUMBERS	REGISTERED IN NAME
1898				
Nov. 2	\$ 1,000.00	635	997	
	1,000.00	"	998	
	1,000.00	"	999	
	350.00	"	1000	
	1,000.00	"	1001	
	265.62	"	1002	
	105.00	"	1003	
	1,000.00	"	1004	
	492.98	"	1005	
	7.60	"	1006	
	30.00	"	1010	
	34.20	"	973	
	420.00	"	847	
	2,000.00	"	848	
	635.00	"	874	
	200.00	"	938	
	602.13	"	69	
	400.00	"	135	
	800.00	"	214	
	1,000.00	636	241	
	190.00	"	254	
	1,000.00	"	242	
	1,000.00	"	376	
	1,000.00	"	377	
	50.00	"	461	
	125.00	"	482	
(page 112)	5,000.00	"	483	Bearer
	5,000.00	"	485	
	50.00	"	491	
	350.00	"	604	
	183.33	"	624	
	500.00	"	650	
	5.00	"	668	(Recorded as \$500)
	40.00	"	248	
	334.93	"	346	
	1,000.00	"	916	
	1,000.00	"	919	
	1,000.00	"	920	
	1,000.00	"	921	
	1,000.00	"	922	
	1,000.00	"	923	
	500.00	"	978	
	170.83	"	979	
	500.00	"	980	
	78.97	"	981	
	13.68	"	982	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Nov. 2	\$ 1,863.10	636	986	
	20.00	"	1009	
	5,375.00	"	142	
	160.00	"	1011	
	210.00	"	1017	
	63.00	"	147	
	275.00	"	225	
	3.33	637	249	
	1,000.00	"	310	
	1,000.00	"	311	
	200.00	"	335	
	86.67	"	150	
	400.00	"	344	
	1,133.33	"	409	
	1,511.72	"	621	
	1,200.00	"	721	
	20.00	"	323	
	660.00	"	970	
	547.81	"	939	(This was recorded as \$547.)
	500.00	"	872	
	60.00	637	873	
	500.00	"	875	
	5,000.00	"	879	
	4,000.00	"	880	
	100.00	"	876	
	100.00	"	877	
	80.00	"	878	
	100.00	"	881	
	10.00	"	1012	
	1,453.69	"	1013	
	100.00	"	153	
	2,000.00	"	117	
	2,000.00	"	116	
	20.00	"	70	
	31.00	"	228	
	20.00	"	243	
(page 113)	98.75	"	252	Bearer
	735.00	"	380	
	471.50	"	401	(Recorded as \$471.)
	733.33	640	403	
	353.33	"	424	
	350.00	"	434	
	160.00	"	460	
	394.67	"	466	
	930.00	"	462	
	1,000.00	"	476	

DATE		AMOUNT	Our Ctf.		REGISTERED IN NAME
			Number	NUMBERS	
1898					
Nov.	2	\$ 1,000.00	640	477	
		1,000.00	"	478	
		661.36	"	481	
		6,232.08	"	487	
		946.67	"	536	
		860.00	"	552	
		87.50	"	571	
		108.33	"	603	
		146.67	"	614	
		1,654.06	"	617	
		156.60	"	623	
		330.00	"	625	
		567.00	"	631	
		466.67	"	647	
		353.33	"	648	
		175.00	"	651	
		277.50	"	663	
		951.56	641	680	
		1,000.00	"	688	
		90.00	"	716	
		230.00	"	720	
		133.33	641	742	
		670.00	"	743	
		1,000.00	"	753	
		1,000.00	"	754	
		100.00	"	756	
		70.00	"	757	
		8.34	"	761	
		290.00	"	763	
		100.00	"	767	
		33.34	"	768	
		54.23	"	779	
		16.67	"	780	
		1,000.00	"	782	
		100.00	"	784	
		100.00	"	785	
		100.00	"	786	
		100.00	"	787	
		25.00	"	788	
		500.00	"	794	
		500.00	"	783	
		91.83	"	789	
		200.00	"	795	
		79.89	"	796	
		200.00	"	804	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
Nov. 2	\$ 50.00	641	811	Bearer
(page 114)	61.45	"	815	
	56.36	"	819	
	20.00	"	817	
	500.00	642	827	
	70.00	"	828	
	283.33	"	831	
	75.00	"	835	
	1,000.00	"	862	
	88.76	"	863	
	1,000.00	"	865	
	1,000.00	"	866	
	1,000.00	"	871	
	61.67	"	181	
	5.00	"	338	
	1,000.00	"	378	
	1,000.00	"	472	
	1,000.00	"	473	
	1,000.00	"	479	
	1,000.00	"	480	
	5,000.00	"	484	
	190.00	"	496	
	333.33	"	570	
	170.83	642	635	
	90.00	"	687	
	400.00	"	714	
	5.60	"	715	
	63.33	"	727	
	30.00	"	824	
	1,000.00	643	887	
	1,000.00	"	888	
	1,000.00	"	889	
	1,000.00	"	890	
	1,000.00	"	891	
	1,000.00	"	892	
	1,000.00	"	893	
	1,000.00	"	894	
	500.00	"	944	
	200.00	"	945	
	87.50	"	946	
	310.00	"	947	
	1,000.00	"	948	
	245.83	"	949	
	1,000.00	"	950	
	1,000.00	"	951	
	1,287.49	"	453	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	2	\$ 1,105.83	643	741	
		1,000.00	"	755	
		40.00	"	868	
		1,000.00	"	917	
		398.05	"	925	
		1,000.00	"	926	
		100.00	"	927	
		100.00	"	928	
		96.63	"	929	
		100.00	"	930	
		100.00	"	931	
(page 115)		28.13	"	933	Bearer
		452.19	"	940	
		54.17	"	664	
		189.26	"	723	
		20.00	"	853	
		102.00	"	857	
		5.00	"	932	
		200.00	"	952	
		100.00	"	956	
		35.00	"	957	
		5.00	"	958	
		100.00	"	897	
		100.00	"	898	
		100.00	643	899	
		100.00	"	896	
		60.00	"	885	
		100.00	"	883	
		100.00	"	882	
		20.84	644	936	
		38.92	"	903	
		500.00	"	937	
		70.00	"	943	
		500.00	"	895	
		300.00	"	867	
		800.00	"	834	
		175.00	"	829	
		1,000.00	"	818	
		300.00	"	816	
		400.00	"	813	
		25.00	"	805	
		300.00	"	790	
		1,000.00	"	759	
		100.00	"	766	
		100.00	"	760	
		1,000.00	"	440	

DATE		AMOUNT	Our Ctl. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	2	\$ 1,000.00	644	441	
		1,000.00	"	442	
		180.00	"	886	
		36.00	"	942	
		140.00	634	972	
		1,000.00	"	1033	
		1,000.00	"	1032	
		1,000.00	"	1031	
		1,000.00	"	1030	
		1,000.00	"	1029	
		1,000.00	"	1028	
		1,000.00	"	1027	
		1,000.00	"	1026	
		1,000.00	"	1025	
		1,000.00	"	1024	
		1,000.00	"	1023	
		1,000.00	"	1022	
		1,000.00	"	1021	
		1,000.00	"	1020	
		1,000.00	"	1019	
		1,000.00	"	1018	
(page 116)		500.00	"	1034	Bearer
		390.00	"	42	
		2,045.00	"	30	
		2,550.00	"	36	
		460.00	634	1035	
		1,000.00	638	905	
		1,000.00	"	906	
		640.00	"	907	
		4,356.66	662	133	
		320.00	"	131	
Dec.	12	30.00	723	90	
		100.00	"	152	
		100.00	"	151	
		114.70	"	227	
		530.00	"	22	
		696.67	"	293	
		80.00	"	294	
		46.33	"	1007	
		514.33	"	649	
		1,484.00	"	764	
		1,000.00	724	822	
		450.00	"	823	
	27	600.00	778	792	
		1,000.00	"	791	
		470.00	779	222	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
	181.11	779	189	
	60.00	"	245	
	270.00	"	255	
	79.79	"	8	
	853.99	"	105	
	1,000.00	"	57	
	1,000.00	"	231	
	1,000.00	"	102	
	1,000.00	"	220	
	1,000.00	"	421	
	1,170.00	"	503	
	250.00	"	124	
	192.50	"	145	
	126.66	"	149	
	660.00	"	5	
	403.25	"	12	
1899				
Jan. 21	110.00	808	45	
Feb. 2	5,834.00	822	620	
	2,262.50	"	752	
	40.00	"	507	
	923.33	"	26	
	290.00	"	35	
	700.00	"	115	
	1,000.00	"	305	
	1,000.00	"	304	
	1,000.00	821	306	
	1,000.00	"	113	
	1,000.00	"	114	
	1,000.00	"	548	
	1,000.00	"	549	
(page 117)	1,000.00	"	307	Bearer
	1,000.00	"	547	
	1,000.00	"	546	
	1,000.00	"	545	
	1,000.00	"	544	
	1,000.00	"	542	
	1,000.00	"	361	
	1,000.00	"	362	
	1,000.00	"	363	
	1,000.00	"	364	
	1,000.00	"	359	
	1,000.00	"	341	
	1,000.00	"	339	
	1,000.00	"	336	
	1,000.00	"	337	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
Feb. 2	\$ 1,000.00	819	331	
	1,000.00	"	308	
	1,000.00	"	314	
	5,000.00	"	751	
	1,000.00	"	550	
	1,000.00	"	551	
	200.67	828	600	
	4,015.00	844	414	
Mar. 14	986.67	872	520	
	1,000.00	873	519	
	1,000.00	874	518	
	1,000.00	875	517	
	1,000.00	876	516	
April 28	1,000.00	962	284	
	1,000.00	963	287	
	1,000.00	964	286	
	1,000.00	965	285	
	1,283.33	966	671	
	240.47	967	701	
	263.33	968	646	
	58.33	969	674	
	876.67	970	288	
	1,548.34	971	4	
	86.00	972	96	
	128.33	973	78	
	86.00	974	74	
	360.00	975	41	
	1,925.00	976	34	
	276.00	977	17	
May 19	5,000.00	983	9	
	4,000.00	"	11	
	191.67	"	959	
	290.00	"	28	
	140.00	"	88	
	10.00	"	148	
	43.33	"	240	
	20.00	"	263	
	720.00	"	264	
	175.00	"	269	
	360.00	"	280	
	62.00	"	291	
(page 118)	295.84	"	345	Bearer
	41.67	"	349	
	140.00	"	357	
	200.00	"	374	
	60.00	"	382	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
	151.49	983	387	
	299.25	"	388	
	421.67	"	406	
	828.75	"	410	
	83.33	"	452	
	158.33	"	493	
	100.00	"	495	
	66.67	"	825	
	17.28	"	836	
	1,325.00	"	839	
1900				
Jan. 30	33.33	1525	977	
	1,600.00	"	985	
	240.00	"	328	
	1,000.00	"	303	
	16.67	"	129	
	333.33	"	193	
	1,000.00	"	192	
	1,000.00	"	191	
	300.00	"	206	
	850.00	"	77	
	103.87	"	178	
	1,000.00	"	190	
	25.00	"	239	
	1,000.00	"	104	
	5,000.00	1526	99	
	500.00	1525	177	
	1,000.00	"	234	
	1,000.00	1526	232	
	1,000.00	"	101	
	1,000.00	"	235	
	1,000.00	"	100	
	1,000.00	"	238	
	1,000.00	1527	233	
	5,000.00	"	98	
	1,000.00	"	103	
	1,000.00	"	236	
	1,000.00	"	237	
	580.92	1528	2	
	3,089.83	"	3	
	1,355.00	"	15	
	380.00	"	515	
	210.00	"	1039	
	33.33	"	540	
	1,650.00	"	521	
	190.00	"	749	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1900				
Jan. 30	\$ 200.00	1528	710	
	340.00	"	713	
	64.80	"	745	
	133.33	"	758	
(page 119)	240.00	1528	619	Bearer
	64.80	"	748	
	83.33	"	744	
	11.11	"	737	
	124.17	"	690	
	38.91	"	672	
	60.00	"	712	
	630.00	"	587	
	60.00	"	602	
	141.33	"	722	
	437.49	"	709	
	159.00	1529	666	
	104.00	"	706	
	50.00	"	735	
	22.00	"	630	
	100.00	"	689	
	39.86	"	641	
	12.17	"	696	
	3.33	"	705	
	11.11	"	707	
	1,920.00	"	626	
	540.00	"	762	
	108.00	"	566	
	16.67	"	736	
	129.50	"	765	
	600.00	1528	803	
	205.00	"	800	
	1,000.00	1527	802	
	1,000.00	1529	801	
	1,000.00	"	799	
	80.00	"	806	
	34.20	"	808	
	313.20	"	807	
	1,000.00	"	798	
	4.00	"	793	
	40.00	"	840	
	1,050.00	"	842	
	480.00	"	844	
	1,000.00	"	809	
	400.00	1530	810	
	180.00	"	914	
	6.67	"	904	

			Our Ctf.		
DATE		AMOUNT	Number	NUMBERS	REGISTERED IN NAME
1900					
Jan.	30	\$ 270.00	1530	870	
		82.00	“	869	
		469.60	“	852	
		90.00	“	423	
		1,000.00	“	420	
		1,566.67	“	514	
Mar.	15	640.00	1548	1036	
April	4	90.00	1578	989	
		1,500.00	1579	522	
	13	75.00	1632	176	
		1,000.00	“	169	
		1,000.00	“	170	
		1,000.00	“	162	
(page 120)		850.00	1632	163	Bearer
		1,000.00	“	171	
		1,000.00	“	172	
		1,000.00	“	173	
		1,000.00	“	174	
June	5	1,920.00	1645	955	
	16	407.55	1656	638	
Aug.	29	470.00	1751	832	
Sept.	26	200.00	1773	719	
Nov.	10	4.17	1804	60	
		100.00	1085	59	
		2,400.00	1806	54	
1901					
April	29	1,580.00	2082	976	
Nov.	26	736.67	2137	657	
1902					
Jan.	31	386.40	2138	1008	
Feb.	11	163.33	2153	531	
July	25	170.67	2186	855	
Aug.	12	52.50	2213	419	(Entered originally as \$52.)
		360.00	2218	913	
		1,000.00	“	912	
		1,000.00	“	911	
		1,000.00	“	910	
		1,050.00	“	909	
	25	925.86	2275	711	
Sept.	22	248.33	2341	608	
	24	4,000.00	2518	1058	
		5,000.00	“	1057	
		641.67	2519	112	
		2,030.00	2518	16	
		333.33	2519	93	
		489.16	2519	85	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1902				
Sept. 24	\$ 4,266.67	2519	33	
	1,035.00	"	64	
	3,060.42	2518	25	
	1,860.00	2519	13	
	397.29	"	110	
	90.00	2518	161	
	333.33	2519	144	
	350.00	"	330	
	356.67	"	138	
	341.46	"	75	
	341.46	2518	76	
	33.34	2518	261	
	20.00	2519	215	
	23.04	"	217	
	380.00	"	509	
	691.67	"	859	
	215.88	"	358	
	166.67	"	355	
	173.33	"	385	
	265.21	2518	84	
	242.50	2519	165	
	33.33	"	200	
	500.00	"	354	
(page 121)	1,380.00	2519	512	Bearer
	320.00	"	717	
	500.00	"	83	
	1,000.00	2518	384	
	1,000.00	2519	196	
	500.00	"	197	
	300.00	"	216	
	100.00	"	213	
	1,000.00	2519	158	
	1,000.00	"	159	
	1,000.00	"	160	
	1,000.00	"	108	
	1,000.00	"	109	
	1,000.00	"	167	
	1,000.00	"	166	
	1,000.00	"	154	
	1,000.00	"	155	
	1,000.00	"	80	
	1,000.00	"	79	
	1,000.00	"	82	
	1,000.00	"	81	
	1,000.00	"	329	
	1,000.00	"	136	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1902					
Sept.	24	\$ 1,000.00	2519	137	
		1,000.00	"	258	
		1,000.00	"	212	
		1,000.00	"	211	
		100.00	"	156	
		100.00	"	198	
		100.00	2518	199	
		500.00	2519	164	
		500.00	2518	259	
		1,100.00	"	66	
		91.67	2519	168	
		380.00	"	1055	
		88.33	"	1056	
		10,450.00	2520	775	
		2,560.00	2562	797	
		1,440.00	2563	776	
		800.00	2564	812	
		175.00	2566	740	
		50.00	2567	820	
		846.67	2568	830	
		480.00	2569	908	
		455.00	2570	854	
		130.00	2571	1014	
	25	54.00	2429	599	
Oct.	3	110.00	2444	703	
	10	1,100.00	2542	67	
		1,000.00	"	143	
		60.00	"	157	
		1,000.00	2543	250	
		300.00	"	251	
		1,000.00	"	375	
		1,000.00	"	379	
		207.29	2543	399	
		308.33	"	400	
(page 122)					
Oct.	14	147.33	2515	654	Bearer
Dec.	8	824.50	2580	698	
	18	430.00	2587	24	
1903					
July	25	350.00	2734	501	
1904					
Nov.	4	230.00	2789	596	

(CERTS. NOW HELD) WEST VIRGINIA DEBT COMMISSION'' JOHN B. MOON,
CHAIRMAN.

			Our Ctf.		
DATE		AMOUNT	Number	NUMBERS	REGISTERED IN NAME
1905					
Jan.	5	378.00	2833	838	Bearer
	12	695.47	2880	511	
	24	1,000.00	2905	849	
		350.00	2906	850	
June	30	1,000.00	2951	435	
		1,000.00	“	436	
		645.00	“	437	
Dec.	4	216.67	3007	607	
	8	190.00	3009	597	
	13	960.00	3036	729	
	19	583.52	3042	451	
		3,333.33	3043	747	
1906					
April	16	39.06	3127	395	
May	17	10.00	3145	107	
July	9	750.00	3175	636	
		250.00	“	637	
Aug.	23	142.93	3208	1052	
Sept.	17	1,000.00	3214	576	
		1,000.00	3215	577	
		1,000.00	3216	578	
		1,000.00	3217	379	
		1,000.00	3218	580	
		1,000.00	3219	581	
		1,000.00	3220	582	
		1,000.00	3221	583	
		1,234.06	3223	584	
1907					
Sept.	19	150.00	3286	413	
Oct.	3	217.62	3290	1041	
Dec.	23	86.00	3314	47	
		510.00	“	38	
		60.00	“	697	
		1,326.67	“	7	
		376.67	“	72	
		210.00	“	106	
		216.81	“	49	
1908					
May	7	2,539.35	3363	718	
	23	2,016.67	3371	553	
July	17	763.00	3381	292	
	31	840.00	3386	503	
Nov.	20	449.00	3399	301	

		Our Ctf.			
DATE		AMOUNT	Number	NUMBERS	REGISTERED IN NAME
1909					
Feb.	15	1,123.00	3417	532	
(page 123)					
Mar.	23	320.00	3425	975	Bearer
June	3	93.33	3434	543	
	18	1,186.66	3443	50	
1910					
Feb.	28	42.22	3511	941	
Mar.	22	396.00	3522	777	
		2,176.00	“	127	
June	25	1,500.00	3538	523	
Aug.	24	642.00	3541	594	
Oct.	6	212.00	3545	606	
1911					
Feb.	18	432.00	3561	489	
Mar.	22	558.40	3603	750	
	23	1,630.00	3605	350	
	24	100.00	3607	837	

DEPOSITS OF VIRGINIA DEFERRED CTFS. ISSUED

(page 124)

UNDER ACT 1871.

Dollar Interest Scrip.

1898		RECEIVED.			
Aug.	25	\$	12.00	32	94 No
			40.00	33	490
			40.00	34	36
			40.00	35	1162
	26		10.00	41	292
			10.00	42	291
Sept.	12		20.00	195	699
			20.00	196	700
			20.00	197	701
			20.00	198	702
			20.00	199	703
	14		50.00	215	59
			20.00	216	60
			20.00	217	211
			50.00	218	221
			70.00	219	691
Oct.	4		10.00	356	316
			80.00	"	38
			10.00	"	317
			340.00	"	1070
			260.00	"	37
			340.00	"	519

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
	90.00	423	1111	
	60.00	424	1221	
	65.00	425	1058	
	65.00	426	520	
	100.00	427	857	
	110.00	428	1006	
Nov. 1	600.00	561	10	
	600.00	"	132	
	590.00	"	138	
	590.00	"	139	
	150.00	696	683	
	150.00	"	653	
	150.00	"	619	
	150.00	"	589	
	150.00	"	559	
	200.00	"	1101	
	50.00	"	850	
	50.00	"	830	
	50.00	"	814	
	50.00	"	790	
	50.00	"	770	
	225.00	700	1098	
	225.00	"	674	
	225.00	"	644	
	225.00	"	610	
	225.00	"	580	
	225.00	"	550	
(page 125)	80.00	"	1113	No
	80.00	"	843	
	80.00	"	823	
	80.00	"	807	
	80.00	"	783	
	80.00	"	763	
	160.00	703	1102	
	160.00	"	680	
	160.00	"	650	
	160.00	"	616	
	160.00	"	586	
	160.00	"	556	
	100.00	707	552	
	100.00	"	582	
	100.00	"	612	
	100.00	"	646	
	100.00	"	676	
	115.00	"	1106	
	15.00	"	757	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
Nov.	1	\$ 15.00	707	788	
		15.00	“	801	
		15.00	“	817	
		15.00	“	837	
		75.00	712	766	
		75.00	“	786	
		75.00	“	810	
		75.00	“	819	
		75.00	“	846	
		220.00	“	564	
		220.00	“	594	
		220.00	“	624	
		220.00	“	658	
		220.00	“	688	
		295.00	“	1099	
		80.00	565	562	
		80.00	“	592	
		80.00	“	622	
		80.00	“	656	
		80.00	“	686	
		25.00	“	821	
		25.00	“	841	
		25.00	“	855	
		25.00	“	781	
		105.00	“	1108	
		25.00	“	805	
		100.00	626	1001	
		100.00	“	1002	
		100.00	“	1003	
		100.00	“	1004	
		100.00	“	1005	
		500.00	628	172	
		500.00	“	46	
		500.00	“	517	
		500.00	628	1150	
		80.00	629	474	
		80.00	“	473	
		80.00	“	498	
(page 126)					
Nov.	21	50.00	659	515	No Int. from Jan. 1874
		50.00	“	239	1 July 73
		50.00	“	21	28 April 73
Dec.	12	80.00	729	512	
		20.00	“	145	
		60.00	“	147	
		60.00	“	219	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1898				
	20.00	729	156	
	100.00	"	5	
	80.00	"	1075	
	50.00	730	514	
	50.00	"	220	
	50.00	"	534	
27	350.00	782	2	
	30.00	"	734	
	160.00	"	357	
	20.00	"	354	
	20.00	"	355	
	20.00	"	356	
	210.00	"	353	
	355.00	807	209	
	355.00	"	210	
	355.00	"	742	
1899				
Feb. 2	150.00	827	1169	
	200.00	"	868	
	50.00	"	1170	
	200.00	"	867	
	200.00	"	866	
	200.00	"	865	
Mar. 6	15.00	859	3	
	15.00	"	7	
	30.00	"	118	
	30.00	"	493	
	30.00	"	1061	
April 28	210.00	979	215	Bearer
	210.00	"	216	
	210.00	"	217	
	210.00	"	218	
May 19	230.00	984	1019	
	230.00	"	1020	
	230.00	"	1021	
	20.00	984	334	
	20.00	"	335	
	20.00	"	336	
	20.00	"	337	
	5.00	"	527	
	5.00	"	528	
	5.00	"	529	
	5.00	"	530	
	5.00	"	531	
	25.00	"	747	
	25.00	"	748	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1899				
May 19	\$ 25.00	984	749	
	25.00	"	750	
(page 127)	25.00	"	751	Bearer
	25.00	"	429	
	25.00	"	431	
	10.00	"	378	
	5.00	"	341	
	30.00	"	142	
	80.00	"	30	
	10.00	"	64	
	10.00	"	135	
	10.00	"	136	
	10.00	"	87	
	5.00	"	342	
	10.00	"	364	
	25.00	"	432	
	25.00	"	430	
	25.00	"	741	
	25.00	"	739	
	25.00	"	740	
	230.00	"	1022	
	230.00	"	1023	
	110.00	"	141	
	110.00	"	1036	
	25.00	"	1059	
	230.00	"	1095	
Sept. 27	240.00	994	203	
	240.00	"	29	
	240.00	"	427	
	240.00	"	428	
1900				
Jan. 30	30.00	1524	1033	
	10.00	"	169	
	10.00	"	168	
	10.00	"	182	
	30.00	"	18	
	30.00	1524	735	
	20.00	"	704	
	20.00	"	705	
	20.00	"	72	
	50.00	"	47	
	50.00	"	437	
	80.00	"	525	
	80.00	"	167	
	80.00	"	73	
	40.00	"	856	

		Our Ctf.		REGISTERED IN NAME
DATE	AMOUNT	Number	NUMBERS	
1900				
Jan. 30	\$ 50.00	1524	889	
	30.00	"	478	
	30.00	"	477	
	30.00	"	476	
	30.00	"	475	
	30.00	"	1050	
	30.00	"	501	
	60.00	"	885	
	60.00	"	886	
	50.00	"	888	
	100.00	"	937	
	100.00	"	935	
(page 128)	100.00	1524	934	Bearer
	100.00	"	933	
	110.00	"	710	
	100.00	"	936	
	110.00	"	709	
	200.00	"	1055	
	30.00	"	887	
	25.00	"	1082	
	5.00	"	706	
	25.00	"	499	
	25.00	"	1011	
	25.00	"	1013	
	25.00	"	1015	
	20.00	"	882	
	20.00	"	883	
	20.00	"	884	
	30.00	"	733	
	30.00	"	150	
	30.00	"	151	
	30.00	"	152	
	90.00	"	153	
	90.00	"	154	
	90.00	"	155	
April 9	135.00	1591	695	
	35.00	"	16	
April 9	\$ 100.00	1591	15	
	135.00	"	696	
Oct. 8	50.00	1776	161	
	50.00	"	160	
	50.00	"	159	
	50.00	"	158	
11	80.00	1791	923	
	80.00	"	924	
	80.00	"	925	

DATE	AMOUNT	Our Ctf.		REGISTERED IN NAME
		Number	NUMBERS	
1900				
	80.00	1791	926	
	80.00	"	927	
1901				
Mar. 6	50.00	2105	201	
	100.00	"	526	
	50.00	"	68	
	100.00	"	1126	
	50.00	"	67	
	50.00	"	202	
April 29	40.00	2083	49	
	40.00	"	259	
1902				
Jan. 31	105.00	2139	1071	
	105.00	"	720	
	105.00	"	721	
	30.00	"	962	
	30.00	2188	311	
	30.00	"	310	
	30.00	"	308	
	30.00	"	309	
Aug. 12	210.00	2217	943	
	210.00	"	944	
	210.00	"	945	
(page 129)	210.00	"	946	Bearer
	210.00	"	947	
	210.00	"	1060	
Sept. 22	5.00	2340	52	
	5.00	"	235	
	5.00	"	250	
	135.00	"	1014	
	135.00	"	1016	
	140.00	"	1224	
	135.00	"	1226	
24	10.00	2367	1066	
	10.00	"	664	
	10.00	"	540	
	10.00	"	598	
	10.00	"	570	
	10.00	"	634	
	15.00	2367	281	
	15.00	"	325	
	15.00	"	326	
	15.00	"	280	
	40.00	"	791	
	40.00	"	815	
	40.00	"	771	

Our Ctf.

DATE	AMOUNT	Number	NUMBERS	REGISTERED IN NAME
1902				
Sept. 24	\$ 40.00	2367	851	
	45.00	"	276	
	45.00	"	277	
	45.00	"	278	
	45.00	"	279	
	100.00	"	541	
	100.00	"	601	
	100.00	"	635	
	100.00	"	571	
	100.00	"	665	
	100.00	"	1064	
	120.00	"	662	
	120.00	"	538	
	120.00	"	632	
	120.00	"	600	
	120.00	"	568	
	160.00	"	1063	
	45.00	2368	251	
	45.00	"	252	
	80.00	"	557	
	80.00	"	587	
	50.00	"	544	
	50.00	"	574	
	25.00	"	758	
	25.00	"	774	
	20.00	"	572	
	20.00	"	542	
	15.00	"	768	
	15.00	"	785	
	15.00	"	812	
	15.00	"	828	
	20.00	"	636	
	20.00	"	602	
(page 130)	25.00	2368	794	Bearer
	25.00	"	818	
	30.00	"	340	
	50.00	"	638	
	50.00	"	604	
	80.00	"	651	
	80.00	"	617	
	45.00	2368	254	
	45.00	"	253	
	15.00	"	845	
	25.00	"	834	
	20.00	"	666	
	105.00	"	1109	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1902					
Sept.	24	\$ 40.00	2368	1130	
		25.00	“	1127	
		25.00	“	1129	
		80.00	“	681	
		65.00	“	1154	
		50.00	“	668	
Oct.	8	40.00	2480	831	
Dec.	8	25.00	2581	754	
		25.00	“	778	
		25.00	“	798	
		25.00	“	802	
		25.00	“	838	
		105.00	“	1107	
		80.00	“	546	
		80.00	“	576	
		80.00	“	606	
		80.00	“	640	
		80.00	“	670	

1904

Mar.	25	50.00	2760	1144	
		50.00	"	1145	
		50.00	"	1146	
		50.00	"	1147	
		50.00	"	1148	
		50.00	"	1149	

"WEST VIRGINIA DEBT COMMISSION," J. B. MOON, CHAIRMAN.

1905

Jan.	18	80.00	2904	166	
		80.00	"	352	
		80.00	"	75	
		80.00	"	351	
June	30	15.00	2952	462	
		15.00	"	463	
		15.00	"	464	
		15.00	"	465	
		100.00	"	466	
		100.00	"	467	
		100.00	"	468	
		100.00	"	469	
Oct.	4	10.00	2975	50	
		165.00	2975	51	
		75.00	"	261	
		75.00	"	262	
		75.00	"	263	
(page 131)		100.00	2975	264	Bearer

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1905					
Oct.	4	\$ 175.00	2975	518	
1906					
June	22	10.00	3164	67	
		10.00	"	366	
		5.00	"	44	
1907					
Mar.	7	500.00	3260	871	
		500.00	"	422	
		500.00	3261	421	
		500.00	"	420	
		200.00	3262	895	
		200.00	"	896	
		200.00	"	897	
		200.00	"	898	
		200.00	"	899	
		200.00	3263	1083	
		200.00	"	1084	
		200.00	"	1086	
		200.00	"	1087	
		200.00	"	1088	
		410.00	3264	918	
		410.00	"	919	
		410.00	"	920	
		410.00	"	921	
		410.00	"	922	
		250.00	"	1038	
		70.00	"	900	
		70.00	"	901	
		70.00	"	902	
		70.00	"	903	
		70.00	"	904	
		70.00	"	1098	
		70.00	"	1091	
		70.00	"	1090	
		70.00	"	1092	
		70.00	"	1093	
		30.00	3265	1037	
		5.00	"	1160	
		5.00	"	1161	
1908					
Mar.	24	70.00	3350	373	
		70.00	"	372	
1898					
Mar.	24	65.00	3350	370	
		65.00	"	371	
May	23	15.00	3369	14	

DATE		AMOUNT	Our Ctf. Number	NUMBERS	REGISTERED IN NAME
1898					
		50.00	3369	17	
		65.00	"	333	
July	31	160.00	3387	243	
1909					
Feb.	8	50.00	3414	1045	
		30.00	"	960	
		20.00	"	959	
		50.00	"	222	
		50.00	"	523	
1911					
Mar.	22	160.00	3602	241	

DEPOSITS OF VIRGINIA DEFERRED CTFS. ISSUED

(page 132)

UNDER ACT 1871

Stg. Interest Scrip.

RECEIVED.

		£	s	d			
1898							
Oct.	31	12	10		604	28	No
		12	10		"	29	No
		12	10		"	30	No
		12	10		"	31	No
		12	10		"	32	No
		12	10		"	33	No
Nov.	1	2	10		605	44	No
		2	10		"	55	No
		2	10		"	46	No
		2	10		"	48	No
		2	10		"	56	No
		2	10		"	54	No
		8	6	8	"	42	No
		8	6	8	"	43	No
		8	6	8	"	47	No
		8	6	8	"	49	No
		8	6	8	"	52	No
		8	6	8	"	53	No
		209	3	4	606	4	No
		209	3	4	"	5	No
		209	3	4	"	26	No
		209	3	4	"	27	No
		58	6	8	607	24	No
		58	6	8	"	25	No
		40			"	64	No
		40			"	63	No

DATE	AMOUNT	Our Ctf.		NUMBER	REGISTERED IN NAME
		£	s d		
1908					
Nov. 1	58	6	8	607	9 No
	58	6	8	"	8 No
1899					
May 19	184	3	4	987	129 Bearer
	184	3	4	"	130 do
	184	3	4	"	131 do
	184	3	4	"	132 do
1900					
Jan. 30	20	16	8	1531	133 Bearer
	20	16	8	"	134 do
	20	16	8	"	135 do
	20	16	8	"	136 do
	1	13	4	"	140 do
	1	13	4	"	141 do
	1	13	4	"	142 do
	1	13	4	"	143 do
	4	3	4	"	144 do
	4	3	4	"	145 do
	4	3	4	"	146 do
	4	3	4	"	147 do

(page 133) "WEST VIRGINIA DEBT COMMISSION." J. B. MOON CHAIRMAN.

1906	£	s	d		
Jan. 29	16	8		3085	57 Bearer
	16	8		"	58 "
	16	8		"	59 "
	16	8		"	60 "
	16	8		"	61 "
	16	8		"	62 "
June 22	5	0	0	3162	50 "

(page 134) 1879 STG. INT. SCRIP.

RECEIVED.					
1898	£	s	d		
Oct. 31	4	3	4	609	73 No
	23	6	8	"	74 "
	23	6	8	"	75 "
	23	6	8	"	76 "
	12			"	86 "
	6	13	4	"	122 "
	8			"	124 "
	6	13	4	"	125 "
	6	13	4	"	126 "
	16	3	4	"	127 "
	16	8		610	123 "

DATE	Our Ctf.			NUMBER	NUMBERS	REGISTERED IN NAME
	AMOUNT	Number				
1898	£ s d					
Oct. 31	29 3 4	610		89	No	
	62 10	611		110	"	
	62 10	"		109	"	
	62 10	"		108		
	62 10	"		107		
	50	607		120	B. B. & Co. 1871 sterling	
1899					int. ctf. issued by mistake.	
May 19	1 13 4	985		114	Bearer	
	1 13 4	"		115	do	
1902						
Oct. 10	25 10	2550		77	Bearer	
	52 10	"		78	do	
	52 10	"		79	do	
	52 10	"		80	do	
	4 3 4	"		81	do	

"WEST VIRGINIA DEBT COMMISSION." J. B. MOON, CHAIRMAN.

1906	£ s d				
Jan. 29	92 10	3087		90	Bearer
	92 10	3087		91	"
	92 10	"		92	"
	92 10	"		93	"

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